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Thursday
October 12, 1995

Briefings on How To Use the Federal Register
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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

[Two Sessions]

WHEN:	October 17 at 9:00 am and 1:30 pm
WHERE:	Office of the Federal Register Conference Room, 800 North Capitol Street NW., Washington, DC (3 blocks north of Union Station Metro)
RESERVATIONS:	202–523–4538

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Presidential Documents

Title 3—

The President

Proclamation 6834 of October 6, 1995

German-American Day, 1995

By the President of the United States of America

A Proclamation

Since the earliest days of the settlement of North America, immigrants from Germany have enriched our Nation with their industry, culture, and participation in public life. Over a quarter of all Americans can trace their ancestry back to German roots, but more important than numbers are the motives that led so many Germans to make a new beginning across the Atlantic. America's unparalleled freedoms and opportunities drew the first German immigrants to our shores and have long inspired the tremendous contributions that German Americans have made to our heritage.

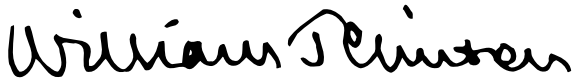
In 1681, William Penn invited German Pietists from the Rhine valley to settle in the Quaker colony he had founded, and these Germans were among the first of many who would immigrate to America in search of religious freedom. This Nation also welcomed Germans in search of civic liberty, and their idealism strengthened what was best in their adopted country. As publisher of the *New York Weekly Journal* in the 1700s, Johann Peter Zenger became one of the founders of the free press. Carl Schurz, a political dissident and close ally of Abraham Lincoln, served as a Union General during the Civil War, fighting to end the oppression of slavery. And German names figured prominently in the social and labor reform movements of the 19th and early 20th centuries.

In the course of 300 years of German emigration to this great land, German Americans have attained prominence in all areas of our national life. Like Baron von Steuben in Revolutionary times and General Eisenhower in World War II, many Americans of German descent have served in our military with honor and distinction. In the sciences, Albert Michelson and Hans Bethe immeasurably increased our understanding of the universe. The painters Albert Bierstadt and modernist Josef Albers have enhanced our artistic traditions, and composers such as Oscar Hammerstein have added their important influences to American music.

Yet even these many distinguished names cannot begin to summarize all the gifts that German Americans have brought to our Nation's history. While parts of the Midwest, Pennsylvania, and Texas still proudly bear the stamp of the large German populations of the last century, it is their widespread assimilation and far-reaching activities that have earned German Americans a distinguished reputation in all regions of the United States and in all walks of life.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 6, 1995, as German-American Day. I encourage Americans everywhere to recognize and celebrate the contributions that millions of people of German ancestry have made to our Nation's liberty, democracy, and prosperity.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of October, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and twentieth.



[FR Doc. 95–25477
Filed 10–10–95; 2:55 pm]
Billing code 3195–01–P

Presidential Documents

Proclamation 6835 of October 6, 1995

National School Lunch Week, 1995

By the President of the United States of America

A Proclamation

On June 4, 1946, President Truman signed the National School Lunch Act—landmark legislation designed to ensure the nutritional health of America's students. This year, nearly half a century later, the Department of Agriculture has updated Federal regulations to require school meals to meet the Dietary Guidelines for Americans. The resulting School Meals Initiative for Healthy Children is the most significant reform of the meals program since President Truman's time, underscoring our Nation's profound responsibility to protect our children's well-being.

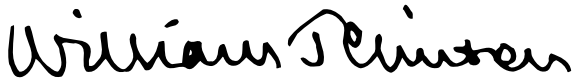
Recognizing that simply adopting policies does not always guarantee change, my Administration launched Team Nutrition on June 12, 1995, to unite public and private organizations in promoting healthful dietary habits through schools, community organizations, and the media. This groundbreaking measure also provides the training, technical assistance, and nutrition education that are critical to the School Meals Initiative's successful implementation. This fall marks the introduction of the Team Nutrition Schools Program, which brings together teachers and principals, children and families, community leaders, and school food services professionals to work for healthier school meals and to make available better nutrition information.

The National School Lunch program currently operates in more than 95 percent of our Nation's public schools and serves some 25 million students daily. The only nutritious meal of the day for many children, a school lunch can help to lengthen attention span, increase learning capacity, and dramatically improve overall health. Thanks to dedicated educators, parents, Federal, State, and local officials, and particularly food service professionals, more than 92,000 schools and residential child care institutions across the country provide wholesome meals to our Nation's children, enabling them to look forward to a healthier future.

In recognition of the contributions of the National School Lunch program to the nutritional well-being of our young people, the Congress, by joint resolution of October 9, 1962 (Public Law 87-780), has designated the week beginning the second Sunday in October of each year as ''National School Lunch Week'' and has requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim October 8 through October 14, 1995, as National School Lunch Week. I call upon all Americans to recognize those individuals whose efforts contribute to the success of our national meals programs, and I encourage people everywhere to reaffirm their commitment to safeguarding children's health.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of October, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and twentieth.



[FR Doc. 95–25478
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Billing code 3195–01–P

Presidential Documents

Proclamation 6836 of October 6, 1995

Columbus Day, 1995

By the President of the United States of America

A Proclamation

To pursue ambitious goals and to realize great dreams, we must be willing to venture away from the familiar and comfortable. We must show the strength of our convictions to tackle the challenges, known and unknown, that stand between us and our hopes for the future.

Today, Christopher Columbus' extraordinary journeys stand as inspiring examples of such determination. This renowned explorer braved the open sea, so feared by his contemporaries, and revealed the splendors of the New World to Renaissance Europe over 500 years ago. He discovered the best use of the North Atlantic wind system, first described the Equatorial Current, and initiated the succeeding rapid exploration and settlement of the Americas.

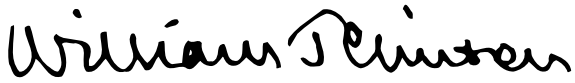
During the course of his first transatlantic voyage, Columbus' bold convictions overcame the resistance of the faint-hearted members of his crew. He led them to the Canaries, the Bahama Islands, Cuba, and Haiti, and subsequent sailings took him to other Caribbean islands, Central America, and Venezuela. As with many pioneers throughout history, Columbus' limited understanding of other cultures led to conflicts and controversies—struggles similar to those that challenge our world even now. But the enduring fame of his travels and the opportunity he sought across uncharted waters remain a call to all who seek adventure.

A native of Genoa, Columbus' courage and commitment led him to leave safe shores in pursuit of his goals. But he could not have made his trips without the support of the Spanish crown. People of Italian and Spanish descent continue to energize communities across our Nation, enhancing every occupation and sector of American society. We are grateful for their tremendous contributions and for the ingenuity of spirit that is Columbus' enduring legacy.

In tribute to Columbus' many achievements, the Congress, by joint resolution of April 30, 1934 (48 Stat. 657), and an Act of June 28, 1968 (82 Stat. 250), has requested the President to proclaim the second Monday in October each year as ''Columbus Day.''

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim October 9, 1995, as Columbus Day. I call upon the people of the United States to observe this day with appropriate ceremonies and activities. I also direct that the flag of the United States be displayed on all public buildings on the appointed day in honor of Christopher Columbus.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of October, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and twentieth.



[FR Doc. 95–25479
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Presidential Documents

Proclamation 6837 of October 6, 1995

Leif Erikson Day, 1995

By the President of the United States of America

A Proclamation

Every October, we celebrate Leif Erikson Day and honor the memory of that great Norse explorer who first set foot on North American soil nearly a millennium ago. At a time when mankind has traveled from pole to pole and even journeyed into the vast reaches of space, Leif Erikson's bold determination stands as an early example of the spirit of adventure and enterprise.

This day is an occasion to celebrate the bonds of friendship that link the United States to the Nordic countries. For generations, Iceland and her neighbors have acted as bridges between Europe and North America, playing a vital role in fostering democracy and free trade throughout the world. Nordic peoples have long shared America's love of liberty and have always reached out to those who struggle against oppression. Today, we in the United States are proud to work with our Northern friends to fully reintegrate the Baltic states of Estonia, Latvia, and Lithuania into the Western family of nations. Together we look forward to a new Europe, united by a common respect for liberty and equality.

We should also mark this observance by recognizing the outstanding contributions that citizens of Danish, Finnish, Icelandic, Norwegian, and Swedish descent have made to our country. Just as their ancestors did before them, Nordic Americans cherish their ties across the ocean and bring their many gifts to America's culture, progress, and prosperity. As we remember Leif Erikson, whose voyage preceded so many rugged immigrants who braved the North Atlantic in search of economic, political, and religious liberties, let us pay tribute to his courage and renew our commitment to freedom.

In honor of Leif Erikson—son of Iceland, grandson of Norway—the Congress, by joint resolution approved on September 2, 1964 (Public Law 88-566), has authorized and requested the President to designate October 9 of each year as ''Leif Erikson Day.''

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim October 9, 1995, as Leif Erikson Day. I encourage the people of the United States to observe this occasion with appropriate ceremonies and activities commemorating our rich Nordic American heritage.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of October, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and twentieth.

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Rules and Regulations

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–190–AD; Amendment 39–9398; AD 95–20–51]

Airworthiness Directives; Boeing Model 767–200 and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the Federal Register an amendment adopting Airworthiness Directive (AD) T95–20–51 that was sent previously to all known U.S. owners and operators of Boeing Model 767–200 and –300 series airplanes by individual telegrams. This AD requires inspections of the lower half of the aft trunnion of the main landing gear (MLG) to detect damage, cracking, missing pieces, or corrosion; and correction of discrepancies. This amendment is prompted by a report indicating that the MLG collapsed on an airplane due to fracture of the aft trunnion outer cylinder that was caused by stress corrosion cracking. The actions specified by this AD are intended to prevent the collapse of the MLG due to the problems associated with stress corrosion cracking in the aft trunnion assembly; collapse of the MLG could lead to loss of control of the airplane during landing, taxiing, and takeoff.

DATES: Effective October 17, 1995, to all persons except those persons to whom it was made immediately effective by telegraphic AD T95–20–51, issued September 25, 1995, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before December 11, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–190–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Information concerning this AD may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: James G. Rehrl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2783; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: On September 7, 1995, the FAA issued AD 95–19–10, amendment 39–9372 (60 FR 47689, September 14, 1995), applicable to all Boeing Model 767 series airplanes. That AD requires operators to perform visual inspections of the outer cylinder aft trunnion on the main landing gear (MLG) to determine if the fillet seal is cracked or missing, and to correct any discrepancy or to perform follow-on actions, if necessary. That action was prompted by reports of fractures of the outer cylinder aft trunnion due to stress corrosion cracking.

Since the issuance of that AD, the FAA has received an additional report indicating that the MLG collapsed on a Model 767–300 series airplane due to fracture of the aft trunnion outer cylinder that was caused by stress corrosion cracking. In this reported incident, the right-hand MLG separated from the aft and forward trunnion support structure and penetrated the wing trailing edge. The airplane rolled to the right and came to rest on the right engine nacelle. Extensive damage occurred to the right-hand MLG and its support structure, the wing trailing edge, and the right engine and its support structure. Investigation revealed that this fracture differed from those reported previously in that it initiated at the crossbolt hole, approximately five inches from the aft trunnion bushing flange.

Stress corrosion cracking in the outer cylinder of the aft trunnion, if not corrected, could result in the collapse of the MLG under certain loading conditions. Such a collapse could lead to the loss of control of the airplane during landing, taxiing, and takeoff.

Consequently, the FAA has determined that the problem of stress corrosion cracking is not limited solely to the aft trunnion bushing, which was addressed in AD 95–19–10. The FAA finds that additional inspections must be performed in an expanded area of the aft trunnion assembly to ensure the safety of the affected fleet. These additional inspections must be performed in addition to, not in lieu of, the inspections required by AD 95–19–10.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design, the FAA issued Telegraphic AD T95–20–51 to prevent the collapse of the MLG due to the problems associated with stress corrosion cracking in the aft trunnion assembly. The AD requires operators to perform an external general visual inspection of the lower half of the aft trunnion of the MLG to detect damage, cracking, missing pieces, or corrosion emanating from the aft trunnion bushing fillet seal or from the aft trunnion crossbolt hole. (This inspection is to be performed repetitively on airplanes having MLG's that are 4 years old or older.) Discrepancies are to be repaired in accordance with a method approved by the FAA.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual telegrams issued on September 25, 1995, to all known U.S. owners and operators of Boeing Model 767–200 and –300 series airplanes. These conditions still exist, and the AD is hereby published in the Federal Register as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

The FAA considers this AD to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons

are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–190–AD.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–20–51 Boeing: Amendment 39–9398. Docket 95–NM–190–AD.

Applicability: All Model 767–200 and 767–300 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent the collapse of the main landing gear due to stress corrosion cracking in the outer cylinder of the aft trunnion, accomplish the following:

Note 2: The inspections required by this AD are in addition to, not in lieu of, the inspections required by AD 95–19–10, amendment 39–9372.

(a) Within 48 clock hours (not flight hours) after the effective date of this AD, perform an external general visual inspection of the lower half of the aft trunnion of the main landing gear (MLG) to detect obvious signs of damage, cracking, missing pieces; or obvious visible corrosion emanating from the aft trunnion bushing fillet seal or from the aft trunnion crossbolt hole.

Note 3: For the purpose of this AD, ''external general visual inspection'' means that the inspection is to be conducted within one foot of the area to be inspected. If necessary, the area should be wiped clean with a rag. Finally, mirrors and additional lighting should be used, as needed, to increase the probability of visually detecting discrepancies. This inspection does not require disassembly of the MLG.

(b) Prior to four years from the date the MLG is placed in service or overhauled, or within 48 clock hours (not flight hours) after the inspection required by paragraph (a) of this AD is accomplished, whichever occurs later, repeat the inspection required by paragraph (a) of this AD. Thereafter, repeat the inspection at intervals not to exceed 48 clock hours.

(c) If any discrepancy is detected during any inspection required by this AD, prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) This amendment becomes effective on October 17, 1995, to all persons except those persons to whom it was made immediately effective by telegraphic AD T95–20–51, issued on September 25, 1995, which contained the requirements of this amendment.

Issued in Renton, Washington, on October 4, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–25157 Filed 10–11–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–179–AD; Amendment 39–9396; AD 95–21–10]

Airworthiness Directives; Fokker Model F28 Mark 0100 and Model F28 Mark 0070 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Fokker Model F28 Mark 0100 and Model F28 Mark 0070 series airplanes. This action requires revising the Limitations Section of the Airplane Flight Manual to include information that will enable the flightcrew to identify failures of the emergency direct current (DC)/ alternating current (AC) bus power supply and to take appropriate corrective actions. This amendment is prompted by one report indicating that a diode failed, which resulted in battery drain and loss of the emergency DC bus power supply; and another report indicating that the circuit breaker of the transformer rectifier unit No. 3 tripped, which resulted in the loss of the emergency DC/AC bus power supply. The actions specified in this AD are intended to ensure that the flightcrew is advised of the potential hazard related to failures of the emergency bus power supply, and the procedures necessary to address it.

DATES: Effective October 27, 1995.

Comments for inclusion in the Rules Docket must be received on or before December 11, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–179–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Information concerning this amendment may be obtained from or examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Ruth Harder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–1721; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, recently notified the FAA that an unsafe condition may exist on all Fokker Model F28 Mark 0100 and Model F28 Mark 0070 series airplanes. The RLD advises that it has received a report that a diode failed on a Fokker Model F28 Mark 0100 series airplane. The flightcrew had no indication of this failure until the battery voltage dropped below a certain value. The RLD also advises that it has received another similar report, but on a Fokker Model Mark 0070 series airplane, in which the circuit breaker of the transformer rectifier unit No. 3 of the emergency direct current (DC) bus supply tripped; this situation resulted in an oscillating behavior of the electrical relays, causing the failure of not only the systems powered by the emergency DC bus, but also of the systems powered by the emergency alternating current (AC) bus. The cause of these failures is unknown at this time.

Failure of a diode in the emergency DC bus supply could result in a battery drain, and the loss of the emergency DC bus and the subsequent loss of all systems powered by it. If the circuit breaker of the transformer rectifier unit No. 3 of the emergency DC bus supply trips, the resultant oscillations of the electrical relays could result in loss of both the emergency DC bus and emergency AC bus; this situation could lead to loss of on-side displays, autopilot, pressure control, and all communications, which could reduce the ability of the flightcrew to control the airplane.

Fokker has developed procedural information, for inclusion in the Airplane Flight Manual (AFM) of the affected airplanes, that will enable the flight crew to identify failures of the emergency DC/AC bus power supply and to take appropriate corrective actions. The RLD classified this AFM material as mandatory, and issued Dutch airworthiness directive BLA 1995–089/2 (A), dated September 29, 1995, in order to assure the continued airworthiness of these airplanes in the Netherlands.

This airplane model is manufactured in the Netherlands and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to ensure that the flightcrew is advised of the potential hazard related to failures of the emergency DC/AC bus power supply, and the procedures necessary to address it. This AD requires revising the Abnormal and Normal Procedures sections of the FAA-approved AFM to include information that will enable the flightcrew to identify failures of the emergency DC/AC bus power supply and to take appropriate procedures necessary to address it.

This is considered to be interim action. The manufacturer has advised it currently is developing a modification that will positively address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–179–AD.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the

national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–21–10 Fokker: Amendment 39–9396. Docket 95–NM–179–AD.

Applicability: All Model F28 Mark 0070 and Model F28 Mark 0100 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that the flightcrew is advised of the potential hazard related to failures of the emergency direct current (DC)/alternating current (AC) bus power supply, and the procedures necessary to address it, accomplish the following:

(a) For all airplanes: Within 7 days after the effective date of this AD, revise the Abnormal Procedures section of the FAA-approved Airplane Flight Manual (AFM) to include the following statement. This may be accomplished by inserting a copy of this AD in the AFM.

''*Section 4—Abnormal Procedures* Add to Sub-section 4.04—Electrical Power

STANDBY ANNUNCIATOR PANEL RED AC SUPPLY LIGHT ''ON''

On overhead electric panel:
GEN LOAD—CHECK
- If all generator loads are approximately zero:
  LOSS OF AC SUPPLY PROCEDURE—APPLY
- If not all generator loads are approximately zero:
  DC EMER BUS SUPPLY TRU3 CIRCUIT BREAKER—CHECK
- If circuit breaker has tripped:
  DC EMER BUS SUPPLY TRU3 CIRCUIT BREAKER—RESET
  —If reset is unsuccessful:
  L and R AUDIO—ALTN
  Anticipate the effects of an eventual EMER DC BUS failure, see EMER DC BUS FAULT procedure.
- If circuit breaker has not tripped:
  L and R AUDIO—ALTN
  Anticipate the effects of an eventual EMER DC BUS failure, see EMER DC BUS FAULT procedure.''

(b) For all airplanes: Within 7 days after the effective date of this AD, revise the Normal Procedures section of the FAA-approved AFM to include the following statement. This may be accomplished by inserting a copy of this AD in the AFM.

''*Section 5—Normal Procedures* Insert in front of Sub-section 5.01.01—Take-off

- After engine start, select the Standby Annunciator Panel (SAP) backup mode ON via the BACKUP p/b at the SAP.
- Keep the SAP in the backup mode for the whole duration of flight until engine shutdown.
- Monitor the SAP.

Note: Failure conditions as presented on the SAP bypass the Flight Warning Computer (FWC) and are not subject to alert inhibition. Be aware that the red LG light on the SAP will illuminate in case one or both thrustlever(s) are below the minimum take-off position and the landing gear is not down.''

(c) For all Model F28 Mark 0070 series airplanes; and for all Model F28 Mark 0100 in pre-SBF100–24–009 configuration or in post SBF100–24–030 configuration: Within 7 days after the effective date of this AD, revise the Abnormal Procedures section of the FAA-approved Airplane Flight Manual (AFM) to include the following statement. This may be accomplished by inserting a copy of this AD in the AFM.

''*Section 4—Abnormal Procedures* Add to Sub-section 4.04—Electrical Power

ERRATIC ELECTRICAL SYSTEM BEHAVIOR

In case of a continuous rattling sound, caused by the fast switching of relays and accompanied by blanking or erratic behavior of the three displays on the electric panel:
BATTERIES—SELECT MOMENTARILY OFF, THEN ON
AFFECTED SYSTEMS—RESTORE IF REQD

If the red AC SUPPLY light on the SAP comes ON:
SAP RED AC SUPPLY LIGHT 'ON' PROCEDURE—APPLY''

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) This amendment becomes effective on October 27, 1995.

Issued in Renton, Washington, on October 4, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–25160 Filed 10–11–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–184–AD; Amendment 39–9389 AD 95–21–04]

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 series airplanes, that currently requires modification of the support structure of the cargo liner. That AD was prompted by a report of chafing and arcing in the vacuum waste exhaust heater that caused a spark to ignite the surrounding insulation blankets. The actions specified in that AD are intended to prevent fire and/or smoke due to chafing and arcing of the vacuum waste exhaust port heater. This amendment expands the applicability of the existing rule to include additional affected airplanes. It also provides for an alternative method of modification.

DATES: Effective October 27, 1995.

The incorporation by reference of McDonnell Douglas Alert Service Bulletin MD11–38A044, Revision 1, dated June 30, 1995, as listed in the regulations, is approved by the Director of the Federal Register as of October 27, 1995.

The incorporation by reference of McDonnell Douglas Alert Service Bulletin MD11–38A044, dated March 22, 1995, as listed in the regulations, was approved previously by the Director of the Federal Register as of May 2, 1995 (50 FR 19158, April 17, 1995).

Comments for inclusion in the Rules Docket must be received on or before December 11, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–184–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California 90712–4137; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (310) 627–5347; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: On April 5, 1995, the FAA issued AD 95–08–09, amendment 39–9198 (60 FR 19158, April 17, 1995), which is applicable to certain McDonnell Douglas Model MD–11 series airplanes. That AD requires modification of the support structure of the cargo liner. The modification entails removing the baffle assemblies and trimming the insulation blankets surrounding the vacuum waste exhaust duct, which will reduce chafing and minimize the possibility of igniting the insulation blanket. These modification procedures also include making the circuit breaker inoperative to deactivate the exhaust duct heater until a new heater can be installed.

That AD was prompted by a report of chafing and arcing in the vacuum waste exhaust heater that caused a spark to ignite the surrounding insulation blankets. The actions required by that AD are intended to prevent fire and/or smoke due to chafing and arcing of the vacuum waste exhaust port heater.

Since the issuance of that AD, the FAA has reviewed and approved McDonnell Douglas Service Bulletin MD11–38A044, Revision 1, dated June 30, 1995. This revised service bulletin is essentially identical to the original issue, which was cited in AD 95–08–09 as the appropriate source of service information, but differs in two aspects:

1. The revised service bulletin includes three additional airplanes in its effectivity listing. These airplanes have been identified as being subject to the same unsafe condition that was addressed by AD 95–08–09.

2. The revised service bulletin provides instructions for conducting an alternative procedure in the modification process. This alternative procedure deactivates the exhaust duct heater by removing wires from the terminal strip, in lieu of making its circuit breaker inoperative until a new heater is installed.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this AD supersedes AD 95–08–09 to continue to require modification of the support structure of the cargo liner. The applicability of the AD is expanded to include three additional airplanes that have been determined to be subject to the unsafe condition addressed by the existing rule. Additionally, this AD provides for the use of an alternative procedure in the modification process, as specified in the revised service bulletin described previously.

Although all of the airplanes identified in the effectivity listing of the referenced alert service bulletins have had split heater cuffs installed on the vacuum waste exhaust ducts, those identified as ''Group 1'' airplanes differ significantly from those identified as ''Group 2'' airplanes: Group 1 airplanes have had split heater cuffs installed on the vacuum waste exhaust ducts, in accordance with McDonnell Douglas Service Bulletin 38–15, dated October 23, 1992; that service bulletin did not adequately specify the minimum distance between the baffle assemblies the vacuum waste exhaust duct. Group 2 airplanes have had split heater cuffs installed during production using production drawings that adequately specified the minimum distance between the baffle assemblies and the vacuum waste exhaust duct. Consequently, because of the configuration of this installation, the FAA finds that the potential for chafing and arcing to occur on Group 1 airplanes is much greater. A review of service history indicates that no incidents of chafing or arcing have occurred on Group 2 airplanes. In light of this, the FAA has determined that airplanes identified in the alert service bulletins as Group 2 airplanes are not subject to the unsafe condition. Accordingly, Group 2 airplanes continue to be excluded from the requirements of this (superseding) AD.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–184–AD.'' The

postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9198 (60 FR 19158, April 17, 1995), and by adding a new airworthiness directive (AD), amendment 39–9389, to read as follows:

95–21–04 McDonnell Douglas: Amendment 39–9389. Docket 95–NM–184–AD. Supersedes AD 95–08–09, Amendment 39–9198.

Applicability: Model MD–11 series airplanes; as listed in McDonnell Douglas Alert Service Bulletin MD11–38A044, dated March 22, 1995, and Revision 1, dated June 30, 1995: and identified as ''Group 1 airplanes,'' on which split heater cuffs have been installed on the waste exhaust ducts of heaters in accordance with McDonnell Douglas MD–11 Service Bulletin 38–15, dated October 23, 1992; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent a fire and/or smoke due to chafing and arcing of the heater, accomplish the following:

(a) For airplanes listed in McDonnell Douglas Alert Service Bulletin MD11–38A044, dated March 22, 1995: Within 30 days after May 2, 1995 (the effective date of AD 95–08–09, amendment 39–9198), modify the support structure of the cargo liner, in accordance with McDonnell Douglas MD–11 Alert Service Bulletin MD11–38A044, dated March 22, 1995, or Revision 1, dated June 30, 1995.

(b) For airplanes listed in McDonnell Douglas Alert Service Bulletin MD11–38A044, Revision 1, dated June 30, 1995, and not subject to paragraph (a) of this AD: Within 30 days after the effective date of this AD, modify the support structure of the cargo liner, in accordance with McDonnell Douglas MD–11 Alert Service Bulletin MD11–38A044, dated March 22, 1995, or Revision 1, dated June 30, 1995.

(c) As of May 2, 1995, the support structure of the cargo liner on any airplane must be modified in accordance with McDonnell Douglas Alert Service Bulletin MD11–38A044, dated March 22, 1995, or Revision 1, dated June 30, 1995, prior to installing a vacuum waste exhaust port heater, P/N 62–5745, in accordance with McDonnell Douglas MD–11 Service Bulletin 38–15, dated October 23, 1992.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Note 3: Alternative methods of compliance previously granted for AD 95–08–09, amendment 39–9198, continue to be considered as acceptable alternative methods of compliance with this amendment.

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The modification shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD11–38A044, dated March 22, 1995; or McDonnell Douglas Alert Service Bulletin MD11–38A044, Revision 1, dated June 30, 1995. Incorporation by reference of the former service bulletin was approved previously by the Director of the Federal Register, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, as of May 2, 1995 (60 FR 19158, April 17, 1995). Incorporation by reference of the latter service bulletin was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801–1771, Attention: Business Unit Manager, Technical Administrative Support, Dept. L51, M.C. 2–98. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on October 27, 1995.

Issued in Renton, Washington, on October 2, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–24903 Filed 10–11–95; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 357 and 382

[Docket No. RM95–12–000; Order No. 583]

Minimum Filing Requirements for FERC Form No. 6, Annual Report for Oil Pipelines; Final Rule

Issued October 3, 1995.

AGENCY: Federal Energy Regulatory Commission (Commission).

ACTION: Final rule.

SUMMARY: The Commission in this order revises the filing requirements for FERC Form 6, Annual Report of Oil Pipeline

Companies, and exempts certain oil pipeline companies with minimal jurisdictional revenues from the requirement for paying annual charges. The Commission exempts from the requirements to prepare and file Form 6, those pipelines whose jurisdictional operating revenues are at or below $350,000 for each of the three preceding calendar years. Those companies that will be exempt from filing Form 6 must nevertheless prepare and file, for each reporting year, page 700, ''Annual Cost of Service Based Analysis Schedule,'' of Form 6. The Commission also relieves those companies not required to file Form 6 from the obligation to pay annual charges to the Commission.

EFFECTIVE DATE: Section 357.2 is effective on January 1, 1995 and § 382.102 is effective on November 13, 1995.

FOR FURTHER INFORMATION CONTACT: Harris S. Wood, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, Telephone: (202) 208–0696.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the Federal Register, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 3104, 941 North Capitol Street NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (808) 856–3920. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400 or 1200bps, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this document will be available on CIPS in ASCII and WordPerfect 5.1 format. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 3104, 941 North Capitol Street NE., Washington, DC 20426.

Order No. 583—Final Rule

Issued October 3, 1995.

Before Commissioners: Elizabeth Anne Moler, Chair; Vicky A. Bailey, James J. Hoecker, William L. Massey, and Donald F. Santa, Jr.

The Federal Energy Regulatory Commission (Commission) in this order revises the filing requirements for FERC Form 6, Annual Report of Oil Pipeline Companies (Form 6), and exempts certain oil pipeline companies with minimal jurisdictional revenues from the requirement for paying annual charges. The change establishing the minimum filing threshold for Form 6 will become effective on January 1, 1995 and the change to the annual charges regulations will become effective, 30 days after the publication of a final rule in this proceeding in the Federal Register, for fiscal year 1996.

The Commission exempts from the requirements to prepare and file Form 6, those pipelines whose jurisdictional operating revenues are at or below $350,000 for each of the three preceding calendar years.[1] For the reasons appearing below, those companies that will be exempt from filing Form 6 must nevertheless prepare and file, for each reporting year, page 700, ''Annual Cost of Service Based Analysis Schedule,'' of Form 6.[2]

The Commission also relieves those companies not required to file Form 6 from the obligation to pay annual charges to the Commission.

I. Background

Order No. 561[3] was issued on October 22, 1993, to comply with the Energy Policy Act of 1992 (Act of 1992),[4] which required that the Commission establish a simplified and generally applicable method of oil pipeline rate regulation. Thereafter, on October 28, 1994, the Commission issued Order No. 571, which established certain filing requirements for oil pipelines seeking cost-of-service rate treatment and promulgated changes to Form 6.[5]

The Commission's regulations currently require each jurisdictional oil pipeline company to submit Form 6 annually, reflecting the operating results and the financial condition of the company involved, irrespective of the level of jurisdictional operations.[6]

II. Public Reporting Burden

The Commission estimates the public reporting burden for the collection of information under this final rule will be reduced for Form 6 by about 18 percent. These estimates include the time for reviewing instructions, researching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The current annual reporting burden of these information collection requirements is 22,572 hours, 148 responses, and 148 respondents.[7]

The final rule will reduce the existing reporting burden associated with Form 6 by an estimated 4,128 hours annually, or an average of 129 hours per response based on an estimated 32 oil pipelines who will be exempt from the filing requirements of Form 6 but not from the filing requirements of page 700.

Comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing this burden, can be sent to the Federal Energy Regulatory Commission, 941 North Capitol Street, N.E., Washington, DC 20426 [Attention: Michael Miller, Information Services Division, (202) 208–1415]; and to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for Federal Energy Regulatory Commission), FAX: (202) 395–5167.

III. The Notice of Proposed Rulemaking

On June 8, 1995, the Commission issued a notice of proposed rulemaking (NOPR) in this docket, proposing to exempt from the requirements to file Form 6, those pipelines with annual jurisdictional revenues of $100,000 or less in each of the past three years, and to exempt such pipelines from payment of annual fees.[8] The Commission stated that the statistical information needed to carry out its responsibilities under the Interstate Commerce Act and the Energy Policy Act of 1992 would not be significantly impacted by exempting such oil pipelines from preparing and filing Form 6. Moreover, the annual charges paid by such companies would be *de minimis*. The burden on these companies would be considerably eased by adoption of such a rule as proposed. The Commission proposed to require that the exempt companies be required to prepare and file page 700 of Form 6, however, since this page is an integral

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[1] Notwithstanding the threshold exemption from filing FERC Form No. 6, all jurisdictional oil pipelines will continue to be subject to the Commission's accounting and recordkeeping requirements (*e.g.*, 18 CFR Parts 351, 352, and 356.)

[2] When filing page 700, each exempt pipeline must also submit page 1 of Form 6. This page includes the Identification and Attestation schedules of Form 6.

[3] Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992, Order No. 561, III FERC Stats. & Regs. ¶ 30,985 (1993); Order on Rehearing, Order No. 561–A, III FERC Stats. & Regs. ¶ 31,000 (1994).

[4] 42 U.S.C. 7172 note (West Supp. 1993).

[5] Cost-of-Service Reporting and Filing Requirements for Oil Pipelines, III FERC Stats. & Regs. ¶ 31,006 (1994).

[6] 18 CFR 357.2.

[7] These numbers are based on an average of respondents expected to file Form 6. The number of respondents actually filing the Form 6 may vary slightly each year.

[8] IV FERC Stats. & Regs. ¶32,515 (1995); 60 FR 31262, June 14, 1995.

part of the Commission's data collection efforts to ensure that the index prescribed by Order No. 561 properly tracks industry costs. Page 700 provides shippers with the necessary information to serve as a preliminary screening tool for pipeline rate filings. It is designed to enable shippers to compare proposed changes in rates against the change in the level of a pipeline's cost of service, to compare the change in a shipper's individual rate with the change in a pipeline's average company-wide barrel-mile rate, and to determine whether to challenge a pipeline's indexed rate increase filings. As such, page 700 provides the Commission and the public with information beyond the financial and accounting data found in the rest of Form 6. Because the information found on page 700 is not readily available elsewhere, the Commission proposed to require those pipelines that would be exempt from filing Form 6 to prepare and file page 700 at the time that other pipelines are required to file Form 6 (*i.e.*, on or before March 31 of each year for the previous calendar year).

Comments on the NOPR were received from Mitchell Energy Corporation (MEC) and NGC Energy Resources, Limited Partnership (NER). MEC strongly supported the Commission's proposed rule. NER generally supported the proposed rule, but suggested that it be revised to increase, from $100,000 to $250,000, the minimum annual jurisdictional operating revenue threshold for exempting oil pipelines from filing Form 6. For the reasons appearing below, the Commission will increase the reporting threshold proposed in the NOPR to $350,000.

IV. Discussion

Form 6 provides the Commission with financial and operational data for the proper administration of the Commission's responsibilities for rate regulation of oil pipelines under the Interstate Commerce Act, as amended,[9] and the Act of 1992. The Commission proposed to establish a filing threshold for Form 6 based on the annual jurisdictional operating revenues of an oil pipeline company.

Analysis of the 146 oil pipelines that filed Form 6 for the 1993 reporting year indicates that, at the $100,000 minimum threshold level for filing Form 6, 22 oil pipelines, or 15 percent of the 1993 total, had jurisdictional operating revenues at or below this level. At the $350,000 level, 32 oil pipelines, or 22 percent of the 1993 total, had jurisdictional operating revenues at or below this level.

NER urged the Commission to raise the minimum threshold level to $250,000, asserting that companies with operational revenues of less than $250,000 have relatively minimal jurisdictional transactions, and that the Commission's statistical data will not be measurably compromised by exempting these pipelines from reporting requirements. In addition, NER asserted that increasing the threshold level will not substantially increase the number of exempt pipelines.

The Commission agrees with NER that it should increase the threshold above what it proposed in the NOPR in this proceeding. However, the Commission will adopt $350,000 as the threshold. We conclude that exempting pipelines under this threshold would not compromise the Commission's ability to gather meaningful data upon which to base its regulation of the oil pipeline industry. Therefore, the Commission will exempt from the requirements of filing Form 6 those oil pipelines with annual jurisdictional operating revenues of $350,000 or less for each of the immediately preceding three reporting years.

A pipeline will be exempt from preparing and filing FERC Form 6 if its jurisdictional operating revenues for the three calendar years immediately preceding the current reporting year were $350,000 or less per reporting year. For a newly established pipeline without three years of operations, the company would use projected data to determine whether Form 6 needs to be filed.

No comments were received on any other aspect of the NOPR. For the reasons stated above and in the NOPR, the rules proposed, as modified to increase the threshold exemption to $350,000, will be adopted as the final rule of the Commission in this proceeding.

V. Environmental Analysis

The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[10] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[11] The action taken here is procedural in nature and therefore falls within the categorical exclusions provided in the Commission's regulations.[12] Therefore, neither an environmental impact statement nor an environmental assessment is necessary and will not be prepared in this rulemaking.

VI. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act[13] generally requires the Commission to describe the impact that a final rule would have on small entities or to certify that the rule will not have a significant economic impact on a substantial number of small entities. An analysis is not required if a final rule will not have such an impact.[14]

Pursuant to section 605(b), the Commission certifies that the final rule will not have a significant economic impact on a substantial number of small entities. The final rule will relieve small entities of the burden of preparing and filing annual reports and of paying annual charges to the Commission.

VII. Information Collection Requirements

Office of Management and Budget (OMB) regulations require OMB to approve certain information collection requirements imposed by agency rules.[15] While these rules and amendments contain no new information collection requirements, the final rule will revise and reduce the reporting requirements under existing Form 6. The Commission uses the data collected under Form 6 to monitor the financial and operating data of oil pipeline companies subject to its jurisdiction, and to assist in determining the reasonableness of rates.

Because of the revisions and expected reduction in public reporting burden under Form 6, the Commission is submitting a copy of the final rule to OMB for its review and approval. No person required to file page 700 of Form 6 shall be penalized for failure to respond to this collection of information unless the collection of information displays a valid OMB control number. Interested persons may obtain information on these reporting requirements by contacting the Federal Energy Regulatory Commission, 941 North Capitol Street NE, Washington, D.C. 20426 [Attention: Michael Miller, Information Policy and Standards Branch, (202) 208–1415, FAX (202) 208–2425]; and to the Office of Information

[9] 49 App. U.S.C. 1, *et seq.* (1988).

[10] Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Statutes and Regulations, Regulations Preambles 1986–1990 ¶30,783 (1987).

[11] 18 CFR 380.4.

[12] See 18 CFR 380.4(a)(2)(ii).

[13] 5 U.S.C. 601–612.

[14] 5 U.S.C. 605(b).

[15] 5 CFR 1320.13.

and Regulatory Affairs, Office of Management and Budget (Attention: Desk Officer for Federal Energy Regulatory Commission), Washington, D.C. 20503.

VIII. Dates

This final rule will apply on January 1, 1995 for the change establishing the minimum filing for Form 6 and the requirement that exempted pipelines annually prepare and file page 700 of Form 6. The change to the annual charges regulations will apply on November 13, 1995 for fiscal year 1996.

List of Subjects

18 CFR Part 357

Pipelines, Reporting and recordkeeping requirements.

18 CFR Part 382

Administrative practice and procedure, Electric utilities, Pipelines, Reporting and recordkeeping requirements.

By the Commission.

Lois D. Cashell,

Secretary.

In consideration of the foregoing, parts 357 and 382, chapter I, title 18, Code of Federal Regulations, are amended as set forth below.

PART 357—ANNUAL SPECIAL OR PERIODIC REPORTS: CARRIERS SUBJECT TO PART I OF THE INTERSTATE COMMERCE ACT

1. The authority citation for part 357 is revised to read as follows:

Authority: 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

2. Section 357.2 is revised to read as follows:

§ 357.2 FERC Form No. 6, Annual Report of Oil Pipeline Companies.

Each pipeline carrier subject to the provisions of section 20 of the Interstate Commerce Act whose annual jurisdictional operating revenues has been more than $350,000 for each of the three previous calendar years must prepare and file with the Commission copies of FERC Form No. 6, ''Annual Report of Oil Pipeline Companies,'' pursuant to the General Instructions set out in that form. This report must be filed on or before March 31st of each year for the previous calendar year. Newly established entities must use projected data to determine whether FERC Form No. 6 must be filed. One copy of the report must be retained by the respondent in its files. The conformed copies may be produced by any legible means of reproduction. Notwithstanding the exemption provided above, those carriers exempt from filing Form No. 6 must prepare and file page 700, ''Annual Cost of Service Based Analysis Schedule,'' of FERC Form No. 6 on or before March 31 of each year for the previous calendar year, beginning with the year ending December 31, 1995. When submitting page 700, each exempt carrier must submit page 1 of Form No. 6, the Identification and Attestation schedules.

PART 382—ANNUAL CHARGES

3. The authority citation for part 382 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791a–825r, 2601–2645; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

4. Section 382.102(c) is revised to read as follows:

§ 382.102 Definitions.

* * * * *

(c) *Oil pipeline company* means any person engaged in the transportation of crude oil and petroleum products subject to the Commission's jurisdiction under the Interstate Commerce Act with annual operating revenues greater than $350,000 in any of the three calendar years immediately preceding the fiscal year for which the Commission is assessing annual charges.

* * * * *

[FR Doc. 95–25096 Filed 10–11–95; 8:45 am]

BILLING CODE 6717–01–P

INTERNATIONAL TRADE COMMISSION

19 CFR Part 210

Final Rulemaking Concerning Federal Register Notices and Service of Documents on Other Agencies

AGENCY: International Trade Commission.

ACTION: Final rulemaking.

SUMMARY: The Commission hereby revises certain final rules for investigations and related proceedings under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). The revisions are intended to increase the economy and efficiency of the section 337 process by eliminating the Federal Register publication requirement for certain notices that are not required by law and reducing the number of documents served on other agencies pursuant to section 337(b)(2).

DATES: In accordance with the 30-day advance publication requirement imposed by 5 U.S.C. 553(d), the effective date of these revised rules is November 13, 1995.

FOR FURTHER INFORMATION CONTACT: P.N. Smithey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3061. Hearing-impaired individuals can obtain information concerning the proposed rulemaking by contacting the Commission's TDD terminal at 202–205–1810.

SUPPLEMENTARY INFORMATION:

Background

In Audit Report No. IG–03–94, Review of Ways to Increase the Economy and Efficiency of the Process for Conducting Section 337 Investigations (Aug. 19, 1994), the Inspector General (IG) recommended that the Commission cease publication of section 337 Federal Register notices that are not required by law. The IG also recommended that the Commission cease routinely serving various section 337 documents on other Federal agencies.

The Commission subsequently made a policy decision to halt publication of many, but not all, notices that are not required by law. The Commission also decided that fewer documents should be served on other agencies.

To implement the proposed changes on an interim basis, Chairman Peter S. Watson issued administrative orders suspending the relevant Commission interim and final rules. See Administrative Orders 95–11 and 95–12 (Mar. 21, 1995). The Chairman also sent letters announcing the interim and proposed permanent publication and distribution changes to interested Federal agencies. To obtain comments from the public, the Commission published a notice of proposed rulemaking in the Federal Register.[1] 60 FR 16082 (Mar. 29, 1995) (the March 29, 1995 Notice).

The Comments

The Commission received comments from the U.S. Department of Justice and the International Trade Commission Trial Lawyers Association (ITCTLA). The Justice Department expressed approval of the Commission's plan for reducing the number of documents served on other agencies. Justice also endorsed having section 337 documents available through the Internet.

The ITCTLA commented that having section 337 notices and other section 337 documents available on the

[1] See the Commission's March 25, 1995 notice for a complete discussion of the purpose and effect of the rulemaking changes adopted herein.

Internet, LEXIS, and/or WESTLAW was not an acceptable alternative to publishing notices in the Federal Register. The ITCTLA also commented that the Commission should continue to publish a Federal Register notice whenever it takes the following actions:

1. Determines whether to review an initial determination (ID) on a matter other than temporary relief, regardless of whether that determination results in termination of the investigation in its entirety;

2. Determines to deny a motion for temporary relief; or

3. Institutes proceedings to modify or rescind final Commission action.

The ITCTLA argued that the Commission should continue to publish notice of its decisions on whether to review IDs on matters other than temporary relief, because such decisions (1) Often contain valuable information regarding Commission policy and practice on specific legal issues, (2) may have substantial precedential value, and (3) may be dispositive of certain aspects of the investigation. The ITCTLA urged the Commission to continue publishing notice of Commission decisions to deny temporary relief because (1) Such decisions have precedential value, and (2) the Federal Register is the source most likely to be relied upon by nonparties with an interest in the goods and/or the legal questions at issue. Finally, the ITCTLA advocated publication of notices of the institution of proceedings to modify or rescind final Commission action, because (1) The Commission's final action in such proceedings could disturb the status quo, (2) nonparties with an interest in the goods should therefore have prompt notice of the proceedings, and (3) nonparties are more likely to review the Federal Register than they are to monitor the Commission's docket or to be on the Commission's mailing list.

The Commission's Decisions

After considering the foregoing comments, the Commission has unanimously decided to permanently adopt the plan for reducing the number of section 337 documents served on other agencies, as described in the proposed rules published on March 29, 1995, Administrative Order 95–11, and the Chairman's letters to other agencies.

The Commission also has decided to permanently adopt the plan for reducing the number of section 337 notices published in the March 29, 1995 Notice, with the exception of proposed rule 210.75(b) as discussed below. Publication costs have increased significantly, while the Commission's resources have decreased. The Commission also has not received any indication that the reduction in the number of section 337 notices published already implemented by administrative order in March has caused significant problems for parties, the Commission staff, or the public. As noted below, section 337 notices are available through alternative sources, including the Internet. If the plan as adopted should cause problems in the future, the Commission will revisit its publication practice as needed.

To implement the Commission's decision regarding the publication of Federal Register notices and the service of documents on other agencies, Chairman Watson has issued Administrative Orders 95–18 and 95–19 (Oct. 4, 1995). Chairman Watson has also sent letters announcing the Commission's decisions to the Justice Department, the U.S. Customs Service, the Federal Trade Commission, and the U.S. Department of Health and Human Services.

Like the rule suspensions imposed by Administrative Orders 95–11 and 95–12, the suspensions imposed in Administrative Orders 95–18 and 95–19 apply to the 1994 interim section 337 rules [2] as well as the final rules.[3] Administrative Orders 95–18 and 95–19 both state that the suspension of each final rule terminates on the effective date of an amended or revised rule eliminating the Federal Register notice requirement or the document service requirement from the suspended final rule.

Administrative Orders 95–18 and 95–19 also provide that the Commission's suspension of the relevant 1994 interim rules is to remain in effect permanently, unless the suspensions are rescinded by a future administrative order. Permanent suspension is appropriate because it was not practicable for the Commission to revise the subject interim rules. Those rules were codified in the 1994 edition of 19 CFR parts 210 and 211. The rules currently codified in the 1995 edition of 19 CFR part 210 are final rules which replaced the 1994 interim rules in parts 210 and 211.[4] The 1994 interim rules remain in effect, however, and apply to any pending investigation or related proceeding that was instituted before September 1, 1994.[5]

[2] 19 CFR parts 210 and 211 (1994).

[3] 19 CFR part 210 (1995), as amended at 60 FR 32442 (June 22, 1995).

[4] See 59 FR 39020, Part II (Aug. 1, 1994), as corrected by 59 FR 64286 (Dec. 14, 1994) and as amended by 59 FR 67622 (Dec. 30, 1994) and 60 FR 32442 (June 22, 1995).

[5] See 59 FR 39020.

Availability of Section 337 Notices

Copies of section 337 notices may be reviewed in several locations on the Commission's premises at 500 E Street, SW., Washington, DC 20436. For example, all notices (and other nonconfidential documents on the records of section 337 investigations) may be inspected in the Dockets Branch of the Office of the Secretary (Room 112–A). The notices are located in the public inspection file for the investigation to which the notice or document pertains. Copies may be ordered from the Dockets Branch as well. For further information, contact Ruby J. Dionne, Assistant Secretary and Dockets Branch Chief, telephone 202–205–1802.

Copies of recently issued notices—and news releases concerning the institution of section 337 investigations—also may be obtained from bins along the wall outside of the Dockets Branch.

Section 337 notices that are published in the Federal Register can be reviewed in the Commission's Law Library (Room 614) and the Commission's National Library of International Trade (Room 300).[6] In light of the Commission's decision to reduce the number of notices published in the Federal Register, unpublished notices will be available in the Law Library as well.

Interested persons should also be aware that the Commission has established an Internet site and that a web server and a file transfer protocol (FTP) server are now available for public access. All section 337 notices are now being posted, but only for the duration of the investigations or related proceedings in which the notices were issued. To access the Commission web server, users should enter *http://www.usitc.gov*. To access the Commission FTP server, users should enter *ftp://ftp.usitc.gov*. Information available for downloading from the Commission FTP server mirrors the web server.

The Commission notes finally that some section 337 notices also may be available in the LEXIS and/or WESTLAW databases.

[6] The Law Library maintains paper copies of section 337 Federal Register notices in binders. All notices issued in a particular investigation are placed together in chronological order. The Law Library also keeps paper copies of all issues of the Federal Register for the current year. The National Library of International Trade maintains paper copies of the Federal Register for the current year and microfiche or microfilm copies of the issues for all preceding years.

Section-by-Section Analysis of the Revised Rules

The revised rules which the Commission has adopted in this notice are the same as the proposed rules published in the March 29, 1995 Notice—with one difference: The Commission has not adopted proposed rule 210.75(b). The preamble to the revised rules accordingly consists of (1) The commentary in the present notice and (2) the commentary preceding the proposed rules in the March 29, 1995 Notice, except for the reference to proposed rule 210.75(b).

Proposed rule 210.75(b) was inadvertently included in the March 29, 1995 Notice. The Commission had decided to continue publishing notices of enforcement proceedings, as stated in Administrative Order 95–12. Administrative Order 95–18 provides that the Commission will continue to publish such notices.

A proposal for revising final rule 210.76(b) to eliminate the Federal Register notice requirement for the action to be taken upon receipt of a petition for modification or rescission of a remedial order or a consent order was inadvertently omitted from the March 29, 1995 Notice. That provision of rule 210.76(b) was suspended under Administrative Order 95–12, however. It remains suspended under Administrative Order 95–18. A proposed revision of rule 210.76(b) will be published at a later date for public comment.

Regulatory Analysis

The revised rules adopted in this notice do not meet the criteria enumerated in section 3(f) of Executive Order 12866,[7] and therefore do not constitute a significant regulatory action for purposes of that Executive Order.

In accordance with the Regulatory Flexibility Act,[8] the Commission certifies[9] that the revised rules pertaining to the service of documents on other Federal agencies are not likely to have a significant economic impact on a substantial number of small business entities. The rules in question relate solely to the service of documents by the Commission, not by parties or other interested persons that may or may not be small business entities.

The Commission also certifies that the revised rules on the publication of Federal Register notices are not likely to have a significant economic impact on a substantial number of small business entities. Small businesses (and other firms) that are parties to a section 337 investigation or a related proceedings are served with copies of all notices issued by the presiding administrative law judge or the Commission, regardless of whether the notice will or will not be published in the Federal Register.

Elimination of the Federal Register publication requirement for certain kinds of notices also should not have a significant economic impact on a substantial number of small business entities that are not parties but have an interest in a particular investigation or related proceeding. The Commission notes first that only certain investigations or related proceedings are likely to be of interest to a nonparty firm. Moreover, some of the Federal Register notices that are being eliminated by the revised rules and suspended by Administrative Order 95–18 pertain to events that occur infrequently (e.g. a request for the modification of consent order reporting requirements or the institution of proceedings for the modification or rescission of a remedial order or a consent order). If a nonparty small business entity is interested in a particular investigation or in post-investigation developments that result in the institution of a related proceeding,[10] the firm can obtain such information and copies of the relevant notice or other document by calling or writing the Commission's staff or by visiting the Commission's premises. Copies of such notices also may be accessible through the Commission's Internet server, as described above in this notice.

In any event, the Commission maintains that the Regulatory Flexibility Act is inapplicable to this rulemaking, because it is not one for which a notice of proposed rulemaking was required under 5 U.S.C. 553(b) or another statute.[11] Though the Commission chose to publish such a notice on March 29, 1995, the revised rules are ''agency rules of procedure or practice'' and thus were exempt from the notice requirement imposed by 5 U.S.C. 553(b).

List of Subjects in 19 CFR Part 210

Administrative practice and procedure, Advisory opinions, Business and industry, Customs duties and inspection, Imports, Investigations.

For the reasons set forth in the preamble, the U.S. International Trade Commission hereby revises part 210 of title 19 of the Code of Federal Regulations as follows:

PART 210—ADJUDICATIVE PROCEDURES

1. The authority citation for part 210 continues to read as follows:

Authority: 19 U.S.C. 1333, 1335, and 1337.

2. Section 210.7 is revised to read as follows:

§ 210.7 Service of process and other documents; publication of notices.

(a) *Manner of service.* The service of process and all documents issued by or on behalf of the Commission or the administrative law judge—and the service of all documents issued by parties under §§ 210.27 through 210.34 of this part—shall be in accordance with § 201.16 of this chapter, unless the Commission, the administrative law judge, or another section of this part specifically provides otherwise.

(b) *Publication of notices.* (1) Notice of action by the Commission or an administrative law judge will be published in the Federal Register only as specifically provided in paragraph (b)(2) of this section, by another section in this chapter, or by order of an administrative law judge or the Commission.

(2) When an administrative law judge or the Commission determines to amend or supplement a notice published in accordance with paragraph (b)(1) of this section, notice of the amendment will be published in the Federal Register.

3. Paragraph (a) of § 210.11 is revised to read as follows:

§ 210.11 Service of complaint and notice of investigation.

(a)(1) Notwithstanding the provisions of § 210.54 requiring service of the complaint by the complainant, the Commission, upon institution of an investigation, shall serve copies of the complaint and the notice of investigation (and any accompanying motion for temporary relief) upon each respondent and the embassy in Washington, DC of the government of each foreign country represented by each respondent. All respondents named after an investigation has been instituted and the governments of the foreign countries they represent shall be served as soon as possible after the respondents are named.

(2) The Commission shall serve copies of the notice of investigation upon the U.S. Department of Health and Human Services, the U.S. Department of Justice, the Federal Trade Commission, the U.S. Customs Service, and such other

[7] 58 FR 51735, Oct. 4, 1993.

[8] 5 U.S.C. 601 note.

[9] Pursuant to 5 U.S.C. 605(b).

[10] The terms ''investigation'' and ''related proceedings'' are defined in final rule 210.3 (19 CFR 210.3) (1995).

[11] *See* 5 U.S.C. 603(a).

agencies and departments as the Commission considers appropriate.

* * * * *

4. Paragraphs (b)(2), (c)(2)(i), (c)(2)(ii), and (d) of § 210.21 are revised to read as follows:

§ 210.21 Termination of investigations.

* * * * *

(b) *Termination by Settlement.* * * *

(2) The motion and agreement(s) shall be certified by the administrative law judge to the Commission with an initial determination if the motion for termination is granted. If the licensing or other agreement or the initial determination contains confidential business information, copies of the agreement and initial determination with confidential business information deleted shall be certified to the Commission simultaneously with the confidential versions of such documents. Notice of the initial determination and the agreement shall be provided to the U.S. Department of Health and Human Services, the U.S. Department of Justice, the Federal Trade Commission, the U.S. Customs Service, and such other departments and agencies as the Commission deems appropriate. If the Commission's final disposition of the initial determination results in termination of the investigation in its entirety, a notice will be published in the Federal Register. An order of termination by settlement need not constitute a determination as to violation of section 337 of the Tariff Act of 1930.

(c) *Termination by entry of consent order.* * * *

(2) *Commission disposition of consent order.* (i) If an initial determination granting the motion for termination based on a consent order stipulation is filed with the Commission, notice of the initial determination and the consent order stipulation shall be provided to the U.S. Department of Health and Human Services, the U.S. Department of Justice, the Federal Trade Commission, the U.S. Customs Service, and such other departments and agencies as the Commission deems appropriate.

(ii) The Commission, after considering the effect of the settlement by consent order upon the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers, shall dispose of the initial determination according to the procedures of §§ 210.42 through 210.45. If the Commission's final disposition of the initial determination results in termination of the investigation in its entirety, a notice will be published in the Federal Register. An order of termination by consent order need not constitute a determination as to violation of section 337. Should the Commission reverse the initial determination, the parties are in no way bound by their proposal in later actions before the Commission.

* * * * *

(d) *Termination based upon arbitration agreement.* Upon filing of a motion for termination with the administrative law judge or the Commission, a section 337 investigation may be terminated as to one or more respondents pursuant to section 337(c) of the Tariff Act of 1930 on the basis of an agreement between complainant and one or more of the respondents to present the matter for arbitration. The motion and a copy of the arbitration agreement shall be certified by the administrative law judge to the Commission with an initial determination if the motion for termination is granted. If the agreement or the initial determination contains confidential business information, copies of the agreement and initial determination with confidential business information deleted shall be certified to the Commission with the confidential versions of such documents. A notice will be published in the Federal Register if the Commission's final disposition of the initial determination results in termination of the investigation in its entirety. An order of termination based on an arbitration agreement does not constitute a determination as to violation of section 337 of the Tariff Act of 1930.

* * * * *

5. Section 210.41 is revised to read as follows:

§ 210.41 Termination of investigation.

Except as provided in § 210.21 (b)(2), (c), and (d), an order of termination issued by the Commission shall constitute a determination of the Commission under § 210.45(c). The Commission shall publish in the Federal Register notice of each Commission order that terminates an investigation in its entirety.

6. Paragraphs (e) and (i) of § 210.42 are amended to read as follows:

§ 210.42 Initial determinations.

* * * * *

(e) *Notice to and advice from other departments and agencies.* Notice of each initial determination granting a motion for termination of an investigation in whole or part on the basis of a consent order or a settlement, licensing, or other agreement pursuant to § 210.21 of this part, and notice of such other initial determinations as the Commission may order, shall be provided to the U.S. Department of Health and Human Services, the U.S. Department of Justice, the Federal Trade Commission, the U.S. Customs Service, and such other departments and agencies as the Commission deems appropriate. The Commission shall consider comments, limited to issues raised by the record, the initial determination, and the petitions for review, received from such agencies when deciding whether to initiate review or the scope of review. The Commission shall allow such agencies 10 days after the service of an initial determination to submit their comments.

* * * * *

(i) *Notice of determination.* A notice stating the Commission's decision on whether to review an initial determination will be issued by the Secretary and served on the parties. Notice of the Commission's decision will be published in the Federal Register if the decision results in termination of the investigation in its entirety.

7. Paragraph (d)(3) of § 210.43 is revised to read as follows:

§ 210.43 Petitions for review of initial determinations on matters other than temporary relief.

* * * * *

(d) * * *

(3) The Commission shall grant a petition for review and order review of an initial determination or certain issues therein when at least one of the participating Commissioners votes for ordering review. In its notice, the Commission shall establish the scope of the review and the issues that will be considered and make provisions for filing of briefs and oral argument if deemed appropriate by the Commission. If the notice solicits written submissions from interested persons on the issues of remedy, the public interest, and bonding in addition to announcing the Commission's decision to grant a petition for review of the initial determination, the notice shall be served by the Secretary on all parties, the U.S. Department of Health and Human Services, the U.S. Department of Justice, the Federal Trade Commission, the U.S. Customs Service, and such other departments and agencies as the Commission deems appropriate.

8. Paragraph (c) of § 210.45 is revised to read as follows:

§ 210.45 Review of initial determinations on matters other than temporary relief.

* * * * *

(c) *Determination on review.* On review, the Commission may affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, the initial determination of the administrative law judge. The Commission also may make any findings or conclusions that in its judgment are proper based on the record in the proceeding. If the Commission's determination on review terminates the investigation in its entirety, a notice will be published in the Federal Register.

9. Paragraphs (d) and (f) of § 210.66 are revised to read as follows:

§ 210.66 Initial determination concerning temporary relief; Commission action thereon.

* * * * *

(d) Notice of the initial determination shall be served on the other agencies listed in § 210.50(a)(2). Those agencies will be given 10 calendar days from the date of service of the notice to file comments on the initial determination.

* * * * *

(f) If the Commission determines to modify, reverse, or set aside the initial determination, the Commission will issue a notice and, if appropriate, a Commission opinion. If the Commission does not modify, reverse, or set aside the administrative law judge's initial determination within the time provided under paragraph (b) of this section, the initial determination will automatically become the determination of the Commission. Notice of the Commission's determination concerning the initial determination will be issued on the statutory deadline for determining whether to grant temporary relief, or as soon as possible thereafter, and will be served on the parties. Notice of the determination will be published in the Federal Register if the Commission's disposition of the initial determination has resulted in a determination that there is reason to believe that section 337 has been violated and a temporary remedial order is to be issued. If the Commission determines (either by reversing or modifying the administrative law judge's initial determination, or by adopting the initial determination) that the complainant must post a bond as a prerequisite to the issuance of temporary relief, the Commission may issue a supplemental notice setting forth conditions for the bond if any (in addition to those outlined in the initial determination) and the deadline for filing the bond with the Commission.

10. Paragraph (b) of § 210.74 is revised to read as follows:

§ 210.74 Modification of reporting requirements.

* * * * *

(b) *Consent orders.* Consistent with the standards set forth in paragraph (a) of this section, the Commission may modify reporting requirements of consent orders. The Commission shall serve notice of any proposed change, together with the reporting requirements to be modified and the reasons therefor, on each party subject to the consent order. Such parties shall be given the opportunity to submit briefs to the Commission, and the Commission may hold a hearing on the matter. Notice of any proposed change in the reporting requirements will be published in the Federal Register if the Commission determines to solicit public comment on the proposed change.

Issued: October 4, 1995.

By Order of the Commission.

Donna R. Koehnke,

Secretary .

[FR Doc. 95–25268 Filed 10–11–95; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1310

[DEA–112I]

RIN 1117–AA35

Provisional Exemption From Registration for Certain List I Chemical Handlers; Extension

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Interim rule.

SUMMARY: DEA is amending its regulations to extend the temporary exemption from the chemical registration requirements from October 6, 1995 to November 13, 1996. DEA has become aware that many persons who are subject to the chemical registration requirement were unaware that they were required to submit their applications prior to the October 5, 1995 deadline for applying for registration. Persons failing to meet that deadline would have been required by law to cease all distributions, imports, or exports of List I chemicals until they had obtained a registration. In order to avoid interruption of domestic and international commerce in List I chemicals, DEA is extending the temporary exemption from the registration requirement for the additional period to allow affected persons sufficient time to make application for registration.

EFFECTIVE DATE: October 12, 1995. The new deadline for submitting an application for registration is November 13, 1995.

FOR FURTHER INFORMATION CONTACT: F. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Telephone (202) 307–4025.

SUPPLEMENTARY INFORMATION: The Domestic Chemical Diversion Control Act of 1993 (DCDCA) became effective on April 16, 1994. One of the primary requirements of the DCDCA is that any person who manufactures, distributes, imports or exports a list I chemical shall obtain an annual registration from DEA for each location where such activities are carried out. DEA, recognizing that the regulations to implement the requirements of the DCDCA might not be finalized prior to April 16, 1994, published an Interim Rule in the Federal Register on March 24, 1994, (59 FR 13881) adding a new § 1310.09 to Title 21, Code of Federal Regulations (21 CFR), part 1310, granting a temporary exemption from the chemical registration requirements for any person who submitted an application for registration within 45 days following the effective date of the chemical registration regulations. The chemical registration regulations became effective on August 21, 1995, and the deadline for submitting an application and maintaining the temporary exemption from the registration requirement was October 5, 1995.

It has come to DEA's attention that, despite substantial efforts to provide notice to chemical handlers, including communications with the national associations representing the chemical industry, direct contacts with chemical manufacturers and distributors, and references to the new requirements in industry newsletters, there may be a significant number of persons subject to the registration requirement who have not yet submitted an application for registration. Under the existing requirements regarding chemical registration, such persons would not be authorized to distribute, import, or export a List I chemical; they would have to cease all such activities until they had applied for and received their DEA registrations. In the interest of avoiding a possible disruption of legitimate commerce that enforcement of the requirements might cause at this time and to allow chemical handlers additional opportunity to comply with the new registration requirements, DEA

is amending § 1310.09 to extend the temporary exemption until November 13, 1995.

The Deputy Assistant Administrator of the Office of Diversion Control, Drug Enforcement Administration hereby certifies that this interim rulemaking will have no significant impact upon entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This interim rulemaking extends a temporary exemption from the registration requirements of the DCDCA.

This rule is not a significant regulatory action and therefore has not been reviewed by the Office of Management and Budget pursuant to Executive Order 12866.

This action has been analyzed in accordance with the principles and criteria in Executive Order 12612, and it has been determined that the interim rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 21 CFR Part 1310

Drug Traffic Control, Recordkeeping and Reporting Requirements, List I and List II chemicals.

For reasons set out above, Title 21, Code of Federal Regulations, part 1310 is amended as follows;

PART 1310—[AMENDED]

1. The authority citation for part 1310 continues to read as follows:

Authority: 21 U.S.C. 802, 830, 871(b)

Section 1310.09 is revised to read as follows:

§ 1310.09 Temporary exemption from registration.

Each person required by section 3(b) of the Domestic Chemical Diversion Control Act of 1993 (Pub. L. 103–200, effective April 16, 1994), to obtain a registration to manufacture, distribute, import, or export a list I chemical (other than those list I chemicals exempted under § 1310.01(f)(1)(iv)), is temporarily exempted from the registration requirement. The exemption will remain in effect for each person until the person has made proper application for registration and the Administration has approved or denied such application, provided that the application is submitted on or before November 13, 1995. This exemption applies only to registration; all other chemical control requirements set forth in the Domestic Chemical Diversion Control Act of 1993 and in parts 1310 and 1313 of this chapter remain in full force and effect.

Dated: October 5, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–25249 Filed 10–11–95; 8:45 am]

BILLING CODE 4410–09–M

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

[Rulemaking No. 115]

Waiver of Two-Year Home-Country Physical Presence Requirement, Foreign Medical Graduates, Exchange Visitor Program

AGENCY: United States Information Agency.

ACTION: Final rule.

SUMMARY: Section 220 of the Immigration and Nationality Technical Corrections Act of 1994 (Pub. L. 103–416) amended Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1182(e)) and added a new subsection (k) to section 214 of that Act (8 U.S.C. 1184) regarding waiver of the two-year foreign residence requirement as it applies to foreign medical graduates. An Interim Final Rule with request for comments was published in the Federal Register on April 3, 1995 (60 FR 16785). This final rulemaking amends the Exchange Visitor Program regulations to reflect those legislative changes.

DATES: This final rule is effective October 12, 1995.

ADDRESSES: United States Information Agency, Office of the General Counsel, Rulemaking 115, 301 Fourth Street, SW., Room 700, Washington, DC 20547–0001.

FOR FURTHER INFORMATION CONTACT: William G. Ohlhausen, Assistant General Counsel, United States Information Agency, 301 Fourth Street, SW., Washington, DC 20547; telephone (202) 619–6972.

SUPPLEMENTARY INFORMATION: Section 220 of the Immigration and Nationality Technical Corrections Act of 1994 (Pub. L. 103–416), adopted in the closing days of the 103rd Congress, amended provisions of the Immigration and Nationality Act which deal with the two-year foreign residence requirement affecting foreign medical graduates (also known as ''FMG's'' or ''international medical graduates'') who were admitted to the United States on the J visa, or who acquired such status after admission to the United States, and who are required to return to the country of their nationality or last residence upon the completion of their participation in an exchange visitor program.

The Immigration and Naturalization Service may grant a waiver of the two-year home country physical presence requirement upon the favorable recommendation of the Director of the United States Information Agency. Prior to the recent amendment to sections 212 and 214 of the Immigration and Nationality Act, there were three bases upon which an alien who is a graduate of a medical school pursuing a program in graduate medical education or training could seek a waiver of the two-year foreign residence requirement. The first basis was the so-called ''interested Government Agency'' or ''IGA'' waiver. Under that basis, the Director of the United States Information Agency could recommend a waiver to INS pursuant to the request of an ''interested United States Government agency.'' (Immigration and Nationality Act, as amended, section 212(e) (8 U.S.C. 1182(e); 22 CFR 514.44(a) (2) and (c).)

The other bases upon which a J visa foreign medical graduate could seek a waiver of the two-year foreign residence requirement were to apply to the Immigration and Naturalization Service for a waiver on the grounds that the departure of the alien physician from the United States would ''impose exceptional hardship upon the alien's spouse or child (if such spouse or child is a citizen of the United States or lawfully resident alien), or that the alien cannot return to the country of his nationality or last residence because he would be subject to persecution on account of race, religion, or political opinion.'' (Immigration and Nationality Act, as amended, section 212(e) (8 U.S.C. 1182(e).) Additionally, all three bases for seeking a waiver required a finding by the Attorney General that the waiver was in the public interest.

The enactment of the Immigration and Nationality Technical Corrections Act of 1994 (Pub. L. 103–416) has now provided an additional basis upon which a foreign medical graduate may seek a waiver of the two-year home residence requirement. Section 220(a) of that Act added a provision that authorizes a State Department of Public Health or its equivalent to request the Director of USIA to recommend that INS grant the waiver. However, in addition, the new law requires that the government of the country to which the foreign medical graduate is otherwise contractually obligated to return must furnish the Director of the United States Information Agency with a statement in writing that it has no objection to such

waiver, and the foreign medical graduate must demonstrate that he or she has a bona fide offer of full-time employment and must agree that he or she will begin employment within 90 days of receiving a waiver, and must agree to continue to work, for a total of not less than three years, at a health care facility in an area designated by the Secretary of Health and Human Services as having a shortage of health care professionals. (Immigration and Nationality Act, as amended, section 214(k)(1) (8 U.S.C. 1184(k)(1).)

Upon the favorable recommendation of the Director of USIA, the Attorney General may grant the waiver. The Attorney General may also change the foreign medical graduate's nonimmigrant status from J–1 to H–1B if the alien meets the requirements under section 248 of the Immigration and Nationality Act (8 U.S.C. 1258). If the foreign medical graduate obtains a waiver under Public Law 103–416 and thereafter fails to fulfill the terms of his or her employment contract with the health care facility named in the waiver application, then he or she again becomes subject to the two-year foreign residence requirement and is ineligible to apply for an immigrant visa, permanent residence, or any other change of nonimmigrant status until the two-year foreign residence requirement has been met. (Immigration and Nationality Act, section 214(k)(2) (A) and (B)). Each State is allotted no more than twenty such waivers each fiscal year. The federal fiscal year commences on October 1 and ends the following September 30. The term ''State'' includes the District of Columbia, Puerto Rico, Guam and the Virgin Islands of the United States.

The role of the United States Information Agency under the recent amendments to sections 212(e) and 214 of the Immigration and Nationality Act is limited. Under the amendment to section 212(e), the Commissioner of the Immigration and Naturalization Service will now look to the Director of USIA for a recommendation on foreign medical graduate waiver cases brought ''pursuant to the request of a State Department of Public Health, or its equivalent.'' Section 212(e) was also amended by adding language that makes it clear that waivers requested by a State Department of Public Health, or its equivalent, shall be subject to the requirements of the new section 214(k).

Under new section 214(k)(1)(A), the Attorney General will not grant the waiver unless the country to which the foreign medical graduate is otherwise contractually obligated to return furnishes the Director of USIA with a statement in writing that it has no objection to such waiver.

Reading amended section 212(e) and new section 214(k) together, the Agency views its role in implementing the statute as including the following: (1) It is to be the recipient of State Department of Public Health applications for waivers for foreign medical graduates who will practice medicine in a geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals; (2) it is to be the recipient of ''no objection'' letters from the country to which the applicant is contractually obligated to return; and, (3) it is to review the applications and, where required, no objection letters, determine whether they meet the requirements of the two statutory sections, review the program, policy, and foreign relations aspects of the case, and make a recommendation to the Commissioner of the Immigration and Naturalization Service as to whether the waiver should be granted. The Agency has no statutory role or responsibility with respect to ensuring that the foreign medical graduate has the proper medical credentials or with respect to the foreign medical graduate's eligibility for change of nonimmigrant status or work authorization.

Current regulations regarding requests for waiver made by an interested United States Government agency require the requesting agency to determine that the granting of the waiver would be in the public interest. 22 CFR 514.44(c). This Agency then reviews the program, policy, and foreign relations aspects of the case and forwards its recommendation to the Commissioner. 22 CFR 514.44(c). The Agency intends to follow the same practices with respect to requests for waivers made under the recently amended section 212(e) and the new section 214(k) of the Immigration and Nationality Act.

The Agency received thirteen letters of comment on the Interim Final Rule. (See Appendix A for list of commenters.) The overwhelming majority of those letters dealt with two issues: (1) Whether the statute required a no objection letter in all cases; and, (2) how is the applicant to determine whether the geographic area in which the foreign medical graduate is to be employed has a ''shortage of health care professionals.'' All of the comment letters were fully considered.

With respect to the no objection letters, the Agency notes that the new section 214(k)(1)(A) refers to ''an alien who is otherwise contractually obligated to return to a foreign country.'' (emphasis added.) The phrase ''otherwise contractually obligated'' is not defined in the statute and there is no legislative history preceding the enactment of the statute which would indicate the specific intent of Congress in using that terminology. Having reviewed the comment letters, the Agency now deems the language ''otherwise contractually obligated * * *'' to refer only to those cases where the foreign medical graduate's medical education or training is funded by the government of the graduate's home country. It is the Agency's experience that where a foreign government funds the graduate medical education or training abroad of one of its nationals, it also contractually obligates the foreign medical graduate to return to the home country at the conclusion of the graduate medical education or training.

Thus, the Final Rule requires the applicant to furnish the Agency with a no objection letter from the home country only in those instances where the foreign medical graduate's medical education or training is funded by his or her home country's government. Whether or not there is foreign government funding can be determined by examining the face of the foreign medical graduate's Form IAP–66. Where there has been no funding from the government of the home country, there is no requirement that a no objection letter be furnished to the Agency.

The new statutory provision (Sec. 220 of Public Law 103–416) gives this Agency no role in designating a geographic area or areas as having a shortage of health care professionals. Such designations are made by the Secretary of Health and Human Services. The Secretary of Health and Human Services has advised that applicants for waivers under section 220 of Public Law 103–416 should look to the Department's listings of Designated Primary Care Health Professional Shortage Areas (''HPSAs'') and Medically Underserved Areas/Medically Underserved Populations (''MUAs/MUPs'') in order to determine whether the geographic area or areas in which the foreign medical graduate will be employed has a ''shortage of health care professionals'' within the meaning of the statute. (See Notice dated September 19, 1995 at 60 FR 48515.) The HPSA listing was last published in the Federal Register on January 21, 1994 (59 FR 3412). A copy of the current MUA/MUP may be obtained from the Division of Shortage Designation, Bureau of Primary Health Care, Department of Health and Human Services, 4350 East-West Highway, Room 9–1D–1, Bethesda, Maryland 20814; Phone (301) 594–0816.

Section 220 of Pub. L. 103–416 also contains the term ''health care facility,'' but does not define that term. At least two commenters suggested that the Agency explain what it means by that term. For purposes of this regulation, the Agency deems the Department of Health and Human Services' definition of ''medical facility'' to be synonymous with ''health care facility.'' See 42 CFR 5.2.

Two commenters recommended that the Agency require that the foreign medical graduate provide health care to Medicaid and Medicare beneficiaries. Section 220 of Public Law 103–416 contains no such requirement. The Agency does not believe that it has the authority to impose such a requirement.

One commenter expressed concern that the Interim Final Rule did not address state physician licensure as a component of this waiver program and suggested that the Agency adopt credentialing standards and procedures as a guide to the states in their screening and selecting of applicants. The Agency believes that licensure is a matter of state regulation and that the Agency has no authority under section 220 of Public Law 103–416 to impose licensure requirements.

The No Objection Letter—Procedures and Format

Current regulations set forth the procedure for obtaining ''no objection'' letters from the home country and the manner in which such letters are to be sent to the Agency. 22 CFR 514.44(d). With one exception, this final rulemaking provides for the same procedures to be followed with respect to applications for waivers under Public Law 103–416. In order to avoid confusion with other applications for waivers based on no objection from the home country (hitherto unavailable to foreign medical graduates), when required, the no objection letter submitted under Public Law 103–416 should note clearly that the request for the no objection letter was made pursuant to Public Law 103–416. The Agency does not require that a no objection letter be of or on a particular form. The following or similar language will suffice: ''Pursuant to Public Law 103–416, the Government of _____ has no objection if (name and address of foreign medical graduate) does not return to _____ to satisfy the two-year foreign residency requirement of Section 212(e) of the Immigration and Nationality Act.''

The Application Package

The application for waiver of the two-year home country residence requirement under the provisions of Public Law 103–416 is to originate in the designated State Department of Public Health. USIA is not planning to develop any new forms for such application. However the application is to include the following: (1) A letter from the designated official in the State Department of Public Health which identifies the foreign medical graduate and states, if so determined, that it is in the public interest that a waiver of the two-year home residence requirement be granted. (Note: See Appendix B hereto for a list of State Departments of Public Health which, as of the date of this Final Rule, have advised the Agency that they intend to participate in this waiver program); (2) an employment contract between the alien and the health care facility, which includes the name and address of the foreign medical graduate and of the employer and the specific geographic area or areas in which the foreign medical graduate will practice medicine. The employment contract shall include a statement by the foreign medical graduate agreeing to the contractual requirements set forth in section 214(k)(1) (B) and (C) of the Immigration and Nationality Act. The term of the employment contract shall be at least three years; (3) evidence that the area or areas of employment stipulated in the employment contract are in a geographic area or areas designated by the Secretary of Health and Human Services as having a shortage of health care professionals; (4) copies of all forms IAP–66 issued to the foreign medical graduate seeking the waiver; (5) a completed data sheet, copies of which will be made available by the Agency to each State Department of Public Health; and (6) because of the numerical limitations on the approval of waivers under Public Law 103–416 each application from a State Department of Public Health shall be numbered sequentially. Should USIA not grant a favorable recommendation on a given application, the State Department of Public Health will be so notified and will be advised that the number may be used on another application.

If a State Department of Public Health files in excess of twenty applications during one fiscal year, the Agency will give priority to the first twenty sequentially numbered applications.

Application Period Under Public Law 103–416

Section 220(c) of Public Law 103–416 states that ''The amendments made by this section shall apply to aliens admitted to the United States under section 101(a)(15)(J) of the Immigration and Nationality Act, or acquiring such status after admission to the United States, before, on, or after the date of enactment of this Act and before June 1, 1996.'' The Agency believes that the date of June 1, 1996 applies to the status of the foreign medical graduate on that date and not to the new waiver program itself. In other words, if the foreign medical graduate was admitted to the United States on a J visa or acquired a J visa prior to June 1, 1996 in order to pursue graduate medical education or training, he or she would be eligible to apply for a waiver under the provisions of Public Law 103–416 at any time in the future.

Regulatory Analysis and Notices

In accordance with 5 U.S.C. 605(b), the Agency certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not considered to be a major rule within the meaning of section 1(b) of Executive Order 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

The information collection requirements contained in this rule have been presented to the Office of Management and Budget for clearance pursuant to the provisions of the Paperwork Reduction Act.

Dated: October 4, 1995.

Les Jin,

General Counsel.

List of Subjects in 22 CFR Part 514

Cultural exchange programs, Reporting and recordkeeping requirements.

The interim rule published at 60 FR 16785, April 3, 1995, amending 22 CFR part 514, § 514.44, is adopted as final with the following changes.

1. The authority citation for part 514 continues to read as follows:

PART 154—[AMENDED]

Authority: 8 U.S.C. 1101(a)(15)(J), 1182, 1184, 1258; 22 U.S.C. 1431–1442, 2451–2460; Reorganization Plan No. 2 of 1977, 3 CFR, 1977 Comp. p. 200; E.O. 12048 of 3/27/78, 3 CFR, 1978 Comp. p. 168.

§ 514.44 [Revised]

2. Section 514.44(e) is revised to read as follows:

(e) *Requests for waiver from a State Department of Public Health, or its equivalent, on the basis of Public Law 103–416.* (1) Pursuant to Public Law 103–416, in the case of an alien who is a graduate of a medical school pursuing a program in graduate medical education or training, a request for a waiver of the two-year home-country physical presence requirement may be made by a State Department of Public Health, or its equivalent. Such waiver shall be subject to the requirements of section 214(k) of the Immigration and Nationality Act (8 U.S.C. 1184(k)) and this § 514.44.

(2) With respect to such waiver under Public Law 103–416, if such alien is contractually obligated to return to his or her home country upon completion of the graduate medical education or training, the Director of the United States Information Agency is to be furnished with a statement in writing that the country to which such alien is required to return has no objection to such waiver. The no objection statement shall be furnished to the Director in the manner and form set forth in paragraph (d) of this section and, additionally, shall bear a notation that it is being furnished pursuant to Public Law 103–416.

(3) The State Department of Public Health, or equivalent agency, shall include in the waiver application the following:

(i) A completed ''Data Sheet.'' Copies of blank data sheets may be obtained from the Agency's Exchange Visitor Program office.

(ii) A letter from the Director of the designated State Department of Public Health, or its equivalent, which identifies the foreign medical graduate by name, country of nationality or last residence, and date of birth, and states that it is in the public interest that a waiver of the two-year home residence requirement be granted;

(iii) An employment contract between the foreign medical graduate and the health care facility named in the waiver application, to include the name and address of the health care facility, and the specific geographical area or areas in which the foreign medical graduate will practice medicine. The employment contract shall include a statement by the foreign medical graduate that he or she agrees to meet the requirements set forth in section 214(k) of the Immigration and Nationality Act. The term of the employment contract shall be at least three years and the geographical areas of employment shall only be in areas, within the respective state, designated by the Secretary of Health and Human Services as having a shortage of health care professionals;

(iv) Evidence establishing that the geographic area or areas in the state in which the foreign medical graduate will practice medicine are areas which have been designated by the Secretary of Health and Human Services as having a shortage of health care professionals. For purposes of this paragraph, the geographic area or areas must be designated by the Department of Health and Human Services as a Health Professional Shortage Area (''HPSA'') or as a Medically Underserved Area/Medically Underserved Population (''MUA/MUP'').

(v) Copies of all forms IAP–66 issued to the foreign medical graduate seeking the waiver;

(vi) A copy of the foreign medical graduate's *curriculum vitae*;

(vii) If the foreign medical graduate is otherwise contractually required to return to his or her home country at the conclusion of the graduate medical education or training, a copy of the statement of no objection from the foreign medical graduate's country of nationality or last residence; and,

(viii) Because of the numerical limitations on the approval of waivers under Public Law 103–416, *i.e.*, no more than twenty waivers for each State each fiscal year, each application from a State Department of Public Health, or its equivalent, shall be numbered sequentially, beginning on October 1 of each year.

(4) The Agency's Waiver Review Branch shall review the program, policy, and foreign relations aspects of the case and forward its recommendation to the Commissioner. Except as set forth in § 514.44(g)(4)(i), the recommendation of the Waiver Review Branch shall constitute the recommendation of the Agency.

* * * * *

Appendix A to the Preamble

Comments were received from the following individuals and organizations:

Department of Health, State of Alabama
Illinois Department of Public Health
Indiana State Department of Health
Mezzullo & McCandlish, Attorneys at Law
Palmer & Dodge, Attorneys at Law
Department of Health and Mental Hygiene, State of Maryland
Office of Rural Health Policy, Health Resources and Services Administration, Public Health Service, U.S. Department of Health and Human Services
South Carolina Department of Health and Environmental Control
Oklahoma State Department of Health
Center for Rural Health, University of Kentucky
The Federation of State Medical Boards of the United States, Inc.
Center for Rural Health, School of Medicine, University of North Dakota
Hon. Kent Conrad, United States Senator

Appendix B to the Preamble

State Public Health Departments Participating in the Pub. L. 103–416 Waiver Program, as of date of publication of Final Rule:

Alabama

Donald E. Williamson, M.D., State Health Officer, Alabama Department of Public Health, 434 Monroe Street, Montgomery, AL 36130–3017

Arizona

Mr. Phil Lopez, Office Chief, Office of Health Planning, Evaluation and Statistics, Arizona Department of Health Services, 1740 West Adams, Room 312, Phoenix, AZ 85007

Signature must be from: Jack Dillenberg, D.D.S., M.P.H.

Arkansas

Charles McGrew, Director, Section of Health Facility Services and Systems, Arkansas Department of Health, 4815 W. Markham, Slot 39, Little Rock, AR 72205

Delaware

Ms. Jane Rhoe-Jones, Office of Rural Health, Division of Public Health, P.O. Box 637, Dover, DE 19903

Florida

Richard G. Hunter, Ph.D., Department of Health and Rehabilitative Services, State Health Office, 1317 Winewood Boulevard, Tallahassee, FL 32399–0700

Georgia

Ms. Rita Salain, Director, Office of Rural Health and Primary Care, 2 Peachtree Street, 6th Floor Annex, Atlanta, GA 30303

Hawaii

Mr. William H. Dendle, III, Office of Planning, Policy and Program Development, 1250 Punchbowl Street, Room 340, Honolulu, HI 96813

Signature must be from: Jeanette Takamura, Ph.D., Deputy Director, Hawaii State Health Department of Health.

Illinois

John R. Lumpkin, M.D., Director of Public Health, Illinois Department of Public Health, 535 West Jefferson Street, Springfield, IL 62761

Contact person: Ms. Mary Catherine Ring, Chief, Center for Rural Health (use same mailing address as for the Director listed above).

Indiana

Keith Main, Ed.D., Office of Policy and Research, Indiana State Department of Health, 1330 West Michigan Street, P.O. Box 1964, Indianapolis, IN 46206–1964

Kentucky

Ms. Danise Newton, Manager, Primary Care Branch, Department for Health Services, 275 East Main Street, Frankfort, KY 40621.

Maine

Kevin W. Concannon, Commissioner, Department of Human Services, #11 State House Station, Augusta, ME 04333–0011

Contact Person: Sophie Glidden, Director, Office of Primary Health Care, Department of Human Services, #11 State House Station, Augusta, ME 04333–0011.

Massachusetts

Ms. Sally Fogarty, Department of Public Health, 150 Tremont Street, Boston, MA 02111

Applications must be signed by: Mr. David H. Mulligan, Commissioner of Public Health (address is the same as Sally Fogarty).

Michigan

Ms. Vernice Davis Anthony, Director, Michigan Department of Public Health, 3423 N. Martin Luther King Jr. Blvd., P.O. Box 30195, Lansing, MI 48909

Minnesota

Ms. Chari Konerza, Director, Minnesota Office of Rural Health and Primary Care, P.O. Box 64975, St. Paul, MN 55164

Mississippi

Mr. Harold Armstrong, State Department of Health, P.O. Box 1700, Jackson, MS 39215–1700

Missouri

Coleen Kivlahan, M.D., M.S.P.H., Director, Missouri Department of Health, P.O. Box 570, Jefferson City, MO 65102

Contact: Mr. Alan Welles (at same address) may also sign applications).

Montana

Mr. Robert J. Robinson, Director, Department of Health and Environmental Sciences, Cogswell Building, P.O. Box 200901, Helena, MT 59620–0901

Nebraska

Mark B. Horton, M.D., M.S.P.H., Director, Nebraska Department of Health, 301 Centennial Mall South, P.O. Box 95007, Lincoln, NE 68509–5007

Nevada

Donald S. Kwalick, M.D., MPH, State Health Officer, Nevada State Health Division, 505 E. King Street, Room 201, Carson City, NV 89701

New Mexico

J. Alex Valdez, Secretary, State of New Mexico, Department of Health, 1190 St. Francis Drive, P.O. Box 261110, Sante Fe, NM 8750–6110

New York

Ms. Karen Schimke, Executive Deputy Commissioner, New York State Department of Health, Empire State Plaza, Corning Tower, Albany, NY 12237

Contact person: Edward Salsberg, Director of the Bureau of Health Resources Development.

North Carolina

Mr. James D. Bernstein, Director, North Carolina Office of Rural Health and Resource Development, 311 Ashe Avenue, Raleigh, NC 27606

North Dakota

Jon R. Rice, M.D., State Health Officer, State Department of Health and Consolidated Laboratories, 600 East Boulevard Avenue, Bismarck, ND 58505–0200

Oklahoma

Robert D. Vincent, Ph.D., Deputy Commissioner, Health Promotion and Policy Analysis, 1000 NE 10th Street, Oklahoma City, OK 73117–1299

Rhode Island

Patricia Nolan, M.D., M.P.H., Director, Rhode Island Department of Health, Cannon Building, 3 Capitol Hill, Providence, RI 02908–5097

South Carolina

Mr. Mark Jordan, Director, Office of Primary Care, Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201

South Dakota

Ms. Barbara A. Smith, Secretary, South Dakota Department of Health, 445 East Capitol Avenue, Pierre, SD 57501–3185

Tennessee

Dr. Fredia Wadley, Commissioner, Tennessee Department of Health, 9th Floor, Tennessee Tower, 312 8th Avenue North, Nashville, TN 37247–0101

Texas

Dr. David Smith, Commissioner of Health, Texas Department of Health, 1100 West 49th Street, Austin, TX 78756–3199

Vermont

Jan K. Carney, M.D, M.P.H., Commissioner, Vermont Department of Health, 108 Cherry Street, P.O. Box 70, Burlington, VT 05402

Washington

Mr. Verne A. Gibbs, Director, Washington State Department of Health, Community and Rural Health, P.O. Box 47834, Olympia, WA 98504–7834

West Virginia

Ms. Gretchen O. Lewis, Secretary (Signator), Department of Health and Human Resources, Building 3, Room 206, State Capitol Complex, Charleston, WV 25305

Applications to go to following for review: Linda Atkins, Director, Health Professions Recruitment Program, 1411 Virginia Street, East, Charleston, WV 25301.

Wisconsin

John D. Chapin, Interim Administrator, Wisconsin Divison of Health, P.O. Box 309, Madison, WI 53701–0309

[FR Doc. 95–25224 Filed 10–11–95; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8623]

RIN 1545–AS27

Substantiation Requirement for Certain Contributions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final regulations that provide guidance regarding the substantiation requirements for charitable contributions of $250 or more contained in section 170(f)(8) of the Internal Revenue Code. The guidance contained in these final regulations will affect organizations described in section 170(c) and individuals and entities that make payments to those organizations.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Jefferson K. Fox, 202–622–4930 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545–1431. Responses to this collection of information are required to substantiate deductions under section 170 of the Internal Revenue Code for certain charitable contributions. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

The estimated burden per recordkeeper varies from 15 minutes to 30 minutes, depending on individual circumstances, with an estimated average of 25 minutes.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attention: IRS Reports Clearance Officer, PC:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington DC 20503.

Books or records relating to this collection of information must be

retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) relating to the substantiation requirements under section 170(f)(8) of the Internal Revenue Code of 1986. Section 170(f)(8) was added by section 13172 of the Omnibus Budget Reconciliation Act of 1993, Public Law 103–66 (107 Stat. 455, 1993–3 C.B. 43).

Temporary regulations (TD 8544) and a notice of proposed rulemaking by cross-reference to temporary regulations under section 170(f)(8) were published in the Federal Register for May 27, 1994 (59 FR 27458, 27515). The regulations primarily address the substantiation of contributions made by payroll deduction and the substantiation of a payment to a donee organization in exchange for goods or services with insubstantial value.

A public hearing was held on November 10, 1994. On March 22, 1995, the IRS released Notice 95–15, which was published in 1995–15 I.R.B. 22, dated April 10, 1995. Notice 95–15 provides transitional relief (for 1994) from the substantiation requirement of section 170(f)(8).

After consideration of the public comments regarding the proposed regulations, the regulations are adopted as revised by this Treasury decision, and the corresponding temporary regulations are removed.

Explanation of Statutory Provisions

Section 170 allows a deduction for certain charitable contributions to or for the use of an organization described in section 170(c). Under section 170(f)(8), taxpayers who claim a deduction for a charitable contribution of $250 or more must obtain substantiation of that contribution from the donee organization and maintain the substantiation in their records. See H.R. Conf. Rep. 213, 103d Cong., 1st Sess. 565 (1993). Specifically, section 170(f)(8)(A) provides that no charitable contribution deduction will be allowed under section 170(a) for a contribution of $250 or more unless the taxpayer substantiates the contribution with a contemporaneous written acknowledgment from the donee organization.

Section 170(f)(8)(B) provides that an acknowledgment meets the requirements of section 170(f)(8)(A) if it includes the following information: (a) The amount of cash and a description (but not necessarily the value) of any property other than cash contributed; (b) whether or not the donee organization provided any goods or services in consideration for the cash or other property contributed; and (c) a description and good faith estimate of the value of any goods or services provided by the donee organization in consideration for the cash or other property contributed, or if the goods or services consist solely of intangible religious benefits, a statement to that effect.

Under section 170(f)(8)(C), a written acknowledgment is contemporaneous, for purposes of section 170(f)(8)(A), if it is obtained on or before the earlier of: (a) The date the taxpayer files its original return for the taxable year in which the contribution was made, or (b) the due date, including extensions, for filing the taxpayer's original return for that year.

Section 170(f)(8)(E) directs the Secretary to prescribe such regulations as are necessary or appropriate to carry out the purposes of section 170(f)(8), including regulations that may provide that some or all of the requirements of section 170(f)(8) do not apply in appropriate cases.

Public Comments

Contributions Made by Payroll Deduction

The proposed regulations permit a taxpayer to substantiate contributions made by payroll deduction by a combination of two documents: (a) A pay stub, Form W–2, or other document furnished by the taxpayer's employer that evidences the amount withheld from the taxpayer's wages, and (b) a pledge card or other document prepared by the donee organization that states that the donee organization did not provide any goods or services as whole or partial consideration for any contributions made by payroll deduction.

Commentators reported that pledge cards are frequently prepared by employers at the direction of the donee organization. They suggested that the IRS accept pledge cards with the required language if the pledge cards are prepared either by the employer or by the donee organization. In response to this suggestion, these final regulations provide that pledge cards prepared by the donee organization or by another party at the donee organization's direction can be used as part of the substantiation for a contribution made by payroll deduction.

Commentators asked whether a Form W–2 that reflects the total amount contributed by payroll deduction, but does not separately list each contribution of $250 or more, can be used as evidence of the amount withheld from the employee's wages to be paid to the donee organization. Section 170(f)(8)(B) provides that an acknowledgment must reflect the amount of cash and a description of property other than cash contributed to the charitable organization. When a taxpayer makes multiple contributions to a charitable organization, the statute does not require the acknowledgment to list each contribution separately. Consequently, an acknowledgment provided for purposes of section 170(f)(8) may substantiate multiple contributions with a statement of the total amount contributed by a taxpayer during the year, rather than an itemized list of separate contributions. Therefore, a Form W–2 reflecting an employee's total annual contribution, without separately listing the amount of each contribution, can be used as evidence of the amount withheld from the employee's wages. Because the statute does not require an itemized acknowledgment, it was unnecessary to clarify the proposed regulations to address this concern.

Commentators also asked whether the donee organization must use any particular wording on the pledge card or other document prepared for purposes of substantiating a charitable contribution made by payroll deduction. Because the IRS and the Treasury Department do not believe that any particular wording is required, these final regulations clarify that the pledge card or other document is only required to include a statement to the effect that no goods or services were provided in consideration for the contribution made by the payroll deduction.

Commentators asked for guidance regarding the proper method of substantiating lump-sum contributions made by employees through their employers other than by payroll withholding. Commentators stated that employees occasionally make contributions in the form of checks payable to their employer, who then deposits the checks in an employer account and sends the donee organization a single check drawn on the employer account. When employees' payments are transferred to a donee organization in this manner, it is difficult for the organization to identify the persons who made contributions, and thus the employees may be unable to obtain the requisite substantiation. These difficulties can be eliminated if

the employees' contribution checks are made payable to the donee organization and the employer simply forwards the employees' checks to the donee organization. The donee organization can then provide substantiation as it would for any individual contribution made by check. Therefore, the final regulations have not been modified to address this point.

Goods or Services With Insubstantial Value

The proposed regulations provide that goods or services that have insubstantial value under the guidelines provided in Rev. Proc. 90–12 (1990–1 C.B. 471), and Rev. Proc. 92–49 (1992–1 C.B. 987), and any successor documents, are not required to be taken into account for purposes of section 170(f)(8). The IRS re-proposed this provision in proposed regulations under section 170(f)(8) that were published in the Federal Register for August 4, 1995 (60 FR 39896), and it has therefore been deleted from these final regulations. Taxpayers may rely on those proposed regulations for payments made on or after January 1, 1994.

Additional Comments Addressed in Proposed Regulations Published in the Federal Register for August 4, 1995

Commentators raised a number of other questions about the substantiation regulations, including the following: (a) whether, in calculating a charitable contribution deduction, a donor can rely on a donee organization's estimate of the fair market value of any quid pro quo provided to the donor, (b) how certain types of benefits provided to a donor are to be valued, (c) how the fair market value of goods or services sold at a charity auction can be established, (d) how goods or services are to be treated when provided to a donor who has no expectation of receiving a quid pro quo, (e) how unreimbursed out-of-pocket expenses incurred by a taxpayer incident to the rendition of services to a donee organization can be substantiated, and (f) how certain transfers to a charitable remainder trust can be substantiated. The proposed regulations published August 4, 1995, address these questions, as explained in the preamble to those proposed regulations.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information: The principal authors of these regulations are Jefferson K. Fox, Office of the Assistant Chief Counsel (Income Tax & Accounting), IRS, and Joel S. Rutstein and Rosemary DeLeone, who are formerly of that office. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by removing the entry for 1.170A–13T and the general authority continues to read as follows:

Authority: 26 U.S.C. 7805. * * *

Par. 2. In § 1.170A–13, paragraph (e) is added and reserved and paragraph (f) is added to read as follows:

§ 1.170A–13 Recordkeeping and return requirements for deductions for charitable contributions.

* * * * *

(e) [Reserved]

(f) *Substantiation of charitable contributions of $250 or more.*

(1) through (10) [Reserved]

(11) *Contributions made by payroll deduction*—(i) *Form of substantiation.* A contribution made by means of withholding from a taxpayer's wages and payment by the taxpayer's employer to a donee organization may be substantiated, for purposes of section 170(f)(8), by both—

(A) A pay stub, Form W–2, or other document furnished by the employer that sets forth the amount withheld by the employer for the purpose of payment to a donee organization; and

(B) A pledge card or other document prepared by or at the direction of the donee organization that includes a statement to the effect that the organization does not provide goods or services in whole or partial consideration for any contributions made to the organization by payroll deduction.

(ii) *Application of $250 threshold.* For the purpose of applying the $250 threshold provided in section 170(f)(8)(A) to contributions made by the means described in paragraph (f)(11)(i) of this section, the amount withheld from each payment of wages to a taxpayer is treated as a separate contribution.

(12) *Distributing organizations as donees.* An organization described in section 170(c), or an organization described in 5 CFR 950.105 (a Principal Combined Fund Organization for purposes of the Combined Federal Campaign) and acting in that capacity, that receives a payment made as a contribution is treated as a donee organization solely for purposes of section 170(f)(8), even if the organization (pursuant to the donor's instructions or otherwise) distributes the amount received to one or more organizations described in section 170(c). This paragraph (f)(12) does not apply, however, to a case in which the distributee organization provides goods or services as part of a transaction structured with a view to avoid taking the goods or services into account in determining the amount of the deduction to which the donor is entitled under section 170.

(13) through (15) [Reserved]

(16) *Effective date.* Paragraphs (f) (11) and (12) of this section apply to contributions made on or after January 1, 1994.

§ 1.170A–13T [Removed]

Par. 3. Section 1.170A–13T is removed.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 5. In § 602.101, paragraph (c) is amended by removing the entry for 1.170A–13T from the table and revising the entry for 1.170A–13 to read as follows:

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.170A–13	1545–0074 1545–0754 1545–0908 1545–1431
* * * * *	

Dated: September 22, 1995.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved:

Leslie Samuels,

Assistant Secretary of the Treasury.

[FR Doc. 95–25058 Filed 10–11–95; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–94–092]

Drawbridge Operation Regulations; Beach Thorofare, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulations governing operation of the National Railroad Corporation (AMTRAK)/New Jersey Transit Rail Operation (NJTRO) drawbridge across the Beach Thorofare, New Jersey Intracoastal Waterway, mile 68.9, at Atlantic City, New Jersey. This change to the regulations will allow the bridge to be operated remotely from AMTRAK's Philadelphia office. This change is being made in an effort to combine bridgetender and dispatcher positions, enhance rail safety operations and reduce operating costs. This action will relieve AMTRAK of the burden of having a person constantly at the bridge to open the draw, and will still provide for the reasonable needs of navigation.

EFFECTIVE DATE: November 13, 1995.

FOR FURTHER INFORMATION CONTACT: Gary Kassof, Bridge Administrator, NY, Fifth Coast Guard District (212) 668–7069.

SUPPLEMENTARY INFORMATION:

Drafting Information: The principal persons involved in drafting this document are Mr. J. Arca, Fifth Coast Guard District, Bridge Branch, NY, Project Manager, and CAPT R. A. Knee, Fifth Coast Guard District Legal Office, Project Counsel.

Regulatory History

On March 6, 1995, the Coast Guard published a Notice of Proposed Rulemaking entitled ''Drawbridge Operation Regulations; New Jersey Intracoastal Waterway, New Jersey'' in the Federal Register (60 FR 12178). The Coast Guard received four comments on the Notice of Proposed Rulemaking. One offered no objection and three opposed the proposal. Objections cited the need for visual observation to safely operate the bridge from a remote location; concern over the ability of the bridge to open in an emergency; and concern for the safety of navigation and nearby children.

The Coast Guard believes the drawbridge is adequately equipped to meet these concerns. The bridge is equipped with eight cameras which provide visual coverage of the entire bridge and waterway. One of the eight cameras has zoom and pan action capability covering a 360 degree arc. Whenever the remote control system equipment is partially disabled, or fails for any reason, the bridge will be physically tended and operated from a local control site as soon as possible, but in no case later than an hour after the malfunction. The bridge is equipped with a radiotelephone capable of communicating in both local and remote control locations. The bridge is also equipped with directional microphones and horns with the ability to receive and deliver signals. A public hearing was not requested, and one was not held.

Background and Purpose

A permit was issued by the Coast Guard on December 20, 1988, to replace and slightly raise the superstructure of the Beach Thorofare Bridge. The new drawbridge provides a vertical clearance of 4 feet at mean high water and 9 feet at mean low water when in the closed position. Prior to its rehabilitation in 1988, the old bridge was left in the open position and unused for 5 to 10 years. However, the regulations governing operation of this bridge require that the bridge open on signal from 11 p.m. to 6 a.m. From 6 a.m. to 11 p.m., the draw is required to open on signal from 20 minutes to 30 minutes after each hour and remain open for all waiting vessels. As a result of the rehabilitation and replacement work, the bridge now operates according to the published regulations. AMTRAK seeks to operate the bridge remotely from its Philadelphia office.

The Beach Thorofare section of the New Jersey Intracoastal Waterway is used primarily by recreational power boats ranging in length from eighteen (18) to thirty-eight (38) feet. The bridge is required to open for vessel traffic infrequently during the winter months. The number of openings increase during the normal boating season.

However, the number of openings is not excessive. During the period from February 1994 through June 1994, drawlogs for the Beach Thorofare Bridge showed the bridge averaged 1 opening per day in February, 1 to 2 openings per day in March, 2 openings per day in April, 6 openings per day in May, and 7 openings per day in June. During the same 5 month period, data provided by AMTRAK showed the number of trains per month crossing the bridge in both directions remained fairly constant, averaging between 900 and 1,000 trains per month. The vast majority of these trains are passenger/shuttle type trains transporting persons wishing to visit Atlantic City, New Jersey. Train traffic across the bridge is proportionately much heavier than waterway traffic requiring openings of the bridge. Because of the relatively few requests for bridge openings, AMTRAK would like to combine the bridgetender and train dispatcher positions in its Philadelphia office. By controlling openings of the bridge and movement of trains across the bridge remotely from one location, AMTRAK can reduce operating costs and still closely monitor operations at the bridge.

The Coast Guard has no record of any vessel allisions with this bridge. The vessels that do use this waterway are relatively small, and it is unlikely that they could create major damage to the bridge even if a vessel/bridge allision did occur. Therefore, safety does not appear to be a significant concern in the evaluation of this request.

This change establishes procedures and criteria for remote operation of the drawbridge, while still providing for the needs of navigation.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that this rule will not prevent mariners from passing through the Beach Thorofare Bridge nor will it change the present opening schedule.

Rather, it will permit the bridge owner to operate the bridge remotely.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this final rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their fields and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this rule to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and it has been determined that this rule will not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B (as amended, 59 FR 38654, 29 July 1994), this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, the Coast Guard is amending part 117 Title 33, Code of Federal Regulations to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.733(e) is revised to read as follows:

§ 117.733 New Jersey Intracoastal Waterway.

* * * * *

(e) The draw of the AMTRAK New Jersey Transit Rail Operations (NJTRO) automated railroad swing bridge across Beach Thorofare, mile 68.9 at Atlantic City shall operate as follows:

(1) Open on signal from 11 p.m. to 6 a.m. From 6 a.m. to 11 p.m., the draw shall open on signal from 20 minutes to 30 minutes after each hour and remain open for all awaiting vessels.

(2) Opening of the draw span may be delayed for ten minutes except as provided in § 117.31(b). However, if a train is moving toward the bridge and has crossed the home signal for the bridge before the signal requesting opening of the bridge is given, that train may continue across the bridge and must clear the bridge interlocks before stopping.

(3) When the bridge is not tended locally and/or is operated from a remote location, sufficient, closed circuit TV cameras shall be operated and maintained at the bridge site to enable the remotely located bridge/train controller to have full view of both river traffic and the bridge.

(4) Radiotelephone Channels 13 (156.65 Mhz) and 16 (156.8 Mhz) VHF–FM, shall be maintained and utilized to facilitate communication in both remote and local control locations. The bridge shall also be equipped with directional microphones and horns to receive and deliver signals to vessels within a mile that are not equipped with radiotelephones.

(5) Whenever the remote control system equipment is partially disabled or fails for any reason, the bridge shall be physically tended and operated by local control. Personnel shall be dispatched to arrive at the bridge as soon as possible, but not more than one hour after malfunction or disability of the remote system. Mechanical bypass and override capability for remote operation shall be provided and maintained.

(6) When the draw is opening and closing, or is closed, yellow flashing lights located on the ends of the centers piers shall be displayed continuously until the bridge is returned to the fully open position.

* * * * *

3. Appendix A to Part 117 is amended by adding the New Jersey Intracoastal Waterway entry under the State of New Jersey to read as follows:

APPENDIX A TO PART 117—DRAWBRIDGES EQUIPPED WITH RADIOTELEPHONES

Waterway	Mile	Location	Bridge name and owner	Call sign	Calling channel	Working channel
* * *	*	*	*	*	*	
New Jersey						
* * *	*	*	*	*	*	
New Jersey Intracoastal Waterway (Beach Thorofare)	68.9	Atlantic City	Beach Thoro AMTRAK	WXZ 528	13	13
* * *	*	*	*	*	*	

Dated: September 28, 1995.

W.J. Ecker,

Rear Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 95–25290 Filed 10–11–95; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7166

[AZ–933–1430–01; AZA 27587, AZA 27588, AZA 27589, AZA 27699]

Withdrawal of National Forest System Land for the Charcoal Kiln Historic Site, the Grapevine Springs Botanical Area, the Lynx Creek Indian Ruins, and the Groom Creek Recreation Complex, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 1,561.43 acres of National Forest System lands from mining for a period of 20 years to protect the Lynx Creek Indian Ruins, the Charcoal Kiln Historic Site, the Grapevine Springs Botanical Area, and the Groom Creek Recreation Complex. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: October 12, 1995.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, 602–650–0509.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System lands are hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect the Charcoal Kiln Historic Site, the Grapevine Springs Botanical Area, the Lynx Creek Indian Ruins, and the Groom Creek Recreation Complex:

Gila and Salt River Meridian

Prescott National Forest

Charcoal Kiln Historic Site

T. 12½ N., R. 1 W.,
Sec. 21, lots 4 and 5.
T. 13 N., R. 1 W.,
Sec. 33, SE¼SW¼.

The area described contains 74.97 acres in Yavapai County.

Grapevine Springs Botanical Area

T. 12½ N., R. 1 W.,
Sec. 26, S½SW¼;
Sec. 35;
Sec. 36, S½NW¼, SW¼, and W½SE¼.

The area described contains 1,040 acres in Yavapai County.

Lynx Creek Indian Ruins

T. 13 N., R. 1 W.,
Sec. 5, E½SW½ and W½SE¼.

The area described contains 160 acres in Yavapai County.

Groom Creek Recreation Complex

T. 13 N., R. 2 W.,
Sec. 26, lots 32, 33, and 34;
Sec. 35, lots 5 to 8, inclusive.

The area described contains 286.46 acres in Yavapai County.

2. The withdrawal made by this order does not alter the applicability of those land laws governing the use of National Forest System lands under lease, license or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: September 15, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95–25205 Filed 10–11–95; 8:45 am]

BILLING CODE 4310–32–P

43 CFR Public Land Order 7167

[ID–943–1430–01; IDI–15692–01]

Partial Revocation of Geological Survey Order Dated June 3, 1952; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Geological Survey order insofar as it affects 120 acres of National Forest System land withdrawn by the Bureau of Land Management for Powersite Classification No. 424 in the Salmon National Forest. The land is no longer needed for this purpose, and the revocation is needed to permit disposal of the land through exchange. This action will open the land to surface entry. The land has been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: November 13, 1995.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, BLM Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706–2500, 208–384–3166.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. The Geological Survey Order dated June 3, 1952, which withdrew National Forest System land for the Bureau of Land Management's Powersite Classification No. 424, is hereby revoked insofar as it affects the following described land:

Boise Meridian

T. 14 N., R. 26 E.,
Sec. 10, W½NE¼ and NE¼NW¼.

The area described contains 120 acres in Lemhi County.

2. At 9 a.m. on November 13, 1995, the land described above shall be opened to such forms of disposition as may by law be made of National Forest System land, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

Dated: September 22, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95–25284 Filed 10–11–95; 8:45 am]

BILLING CODE 4310–GG–P

43–CFR Public Land Order 7168

[ID–943–1430–01; IDI–14542–01, IDI–14539–01]

Partial Revocation of Geological Survey Order Dated August 16, 1955 and Secretarial Order Dated July 2, 1910; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Geological Survey order and a Secretarial order insofar as they affect 134.32 acres of public lands withdrawn for the Bureau of Land Management's Powersite Classification No. 435 and Powersite Reserve No. 117. The lands are no longer needed for the purpose for which they were withdrawn. The revocation is needed to permit disposal of the lands through private exchange. This action will open the lands to surface entry. The lands have been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: November 13, 1995.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, BLM Idaho State

Office, 3380 Americana Terrace, Boise, Idaho 83706–2500, 208–384–3166.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. The Geological Survey Order dated August 16, 1955, which established Powersite Classification No. 435, is hereby revoked insofar as it affects the following described land:

Boise Meridian

T. 5 S., R. 3 E.,
Sec. 9, lots 4, 9, and 10.

The area described contains 95.22 acres in Elmore County.

2. The Secretarial Order dated July 2, 1910, which established Powersite Reserve No. 117, is hereby revoked insofar as it affects the following described land:

Boise Meridian

T. 5 S., R. 3 E.,
Sec. 4, lot 5.

The area described contains 39.10 acres in Elmore County. The total areas described aggregate 134.32 acres in Elmore County.

3. At 9 a.m. on November 13, 1995, the lands described in paragraphs 1 and 2 will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on November 13, 1995, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: September 22, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95–25285 Filed 10–11–95; 8:45 am]

BILLING CODE 4310–GG–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 97

[PR Docket No. 93–305; FCC 95–402]

Implementation of a Vanity Call Sign System

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action makes revisions to the vanity call sign system rules. The revisions concern limiting availability of call signs for call sign Regions 11, 12, and 13 to licensees who have a mailing address in the specific state, commonwealth, or island of those regions, requiring a close relative of a deceased call sign holder to hold the same or higher class of operator license as the deceased, specifying that applicants who file timely vanity call sign renewal applications will have continuing operating authority, establishing a new starting gate, Gate 1A, for clubs that wish to obtain the call sign of a deceased member, and making an editorial change relating to new club and military recreation station applications. The rule amendments are necessary so that all members of the amateur community will be treated fairly, yet recognizing the privileges of higher grade operator licensees. The effect of this action is to make available to amateur operators call signs that they themselves select for their amateur stations.

EFFECTIVE DATE: November 17, 1995.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Federal Communications Commission, Wireless Telecommunications Bureau, Washington, DC 20554, (202) 418–0690.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order,* adopted September 21, 1995, and released October 2, 1995. The complete text of this Commission action is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC 20554. The complete text of this Memorandum Opinion and Order may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.), 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857–3800.

Summary of Memorandum Opinion and Order

1. The Commission made several changes in the vanity call sign system rules. Upon reconsideration, the Commission limited the assignability of call signs designated for Regions 11, 12, and 13 solely to licensees having a mailing address in the specific state, commonwealth, or island of those regions. The limitation does not apply to former call sign holders or to close relatives of deceased call sign holders. The Commission declined to limit vanity call signs to those available in the applicant's call sign region within the 48 contiguous United States.

2. Another change requires that, in the case of a close relative applying for the former call sign of a deceased licensee, the applicant must hold the same or a higher class of operator license.

3. The rules were also amended to specify that an applicant who timely files an application for renewal of a station license having a vanity call sign will have continuing operating authority.

4. Clubs may obtain the call sign of a deceased member, with an additional starting gate, Gate 1A, giving priority to clubs licensed on March 24, 1995. A club station licensed after March 24, 1995, will become eligible to apply immediately under Gate 4 for the call sign of a deceased club member without being required to comply with the normal two year waiting period.

5. An editorial change relating to new club and military recreation stations applications was also made.

6. This Memorandum Opinion and Order is issued under the authority of 47 U.S.C. sections 154(i), and 303(o) and (r).

List of Subjects in 47 CFR Part 97

Club stations, Military recreation stations, Radio, Vanity call signs.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Amended Rules

Part 97 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 97—AMATEUR RADIO SERVICE

1. The authority citation for part 97 continues to read as follows:

Authority citation: 48 Stat. 1066, 1082, as amended; 47 U.S.C. sections 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. sections 151–155, 301–609, unless otherwise noted.

§ 97.17 [Amended]

2. Section 97.17 is amended by removing paragraph (g) and by redesignating paragraph (h) as paragraph (g).

3. Section 97.19 is amended by revising paragraph (d) introductory text and adding new paragraph (d)(4) to read as follows:

§ 97.19 Application for a vanity call sign.

* * * * *

(d) The vanity call sign requested by an applicant must be selected from the group of call signs corresponding to the same or lower class of operator license held by the applicant as designated in the sequential call sign system.

* * * * *

(4) A call sign designated under the sequential call sign system for Alaska,

Hawaii, Caribbean Insular Areas, and Pacific Insular areas will be assigned only to a primary or club station whose licensee's mailing address is in the corresponding state, commonwealth, or island. This limitation does not apply to an applicant for the call sign as the spouse, child, grandchild, stepchild, parent, grandparent, stepparent, brother, sister, stepbrother, stepsister, aunt, uncle, niece, nephew, or in-law, of the former holder now deceased.

4. In § 97.21, paragraphs (a)(3) and (ii) is revised to read as follows:

§ 97.21 Application for a modified or renewed license.

(a) * * *

(3) * * *

(ii) When the license shows a call sign selected by the vanity call sign system, the application must be filed as specified in Section 97.19(b). When the application has been received at the proper address specified in the Wireless Telecommunications Bureau Fee Filing Guide prior to the license expiration date, the licensee operating authority is continued until final disposition of the application.

* * * * *

[FR Doc. 95–25201 Filed 10–11–95; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 209 and 240

[FRA Docket No. RSOR–9, Notice 9, FRA Docket No. RSEP–6, Notice 8]

RIN 2130–AA74

Qualifications for Locomotive Engineers; and, Railroad Safety Enforcement Procedures—Disqualification Procedures: Procedural Changes to Accommodate FRA Hearing Officers

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Interim final rule.

SUMMARY: This interim final rule amends two different regulations to clarify the procedures that will be employed in hearings involving the determination of an individual's fitness for performing safety-sensitive functions and those regarding certification of locomotive engineers.

DATES: (1) This interim final rule is effective November 13, 1995. This rule shall apply as of that date to all future hearings and to review of all hearings pending on that date.

(2) Written comments concerning this rule must be filed no later than November 13, 1995. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Written comments (three copies) concerning this rule should be submitted to the Docket Clerk, Office of Chief Counsel, FRA, 400 Seventh Street SW, Washington, DC 20590. Persons desiring to be notified that their written comments have been received by FRA should submit a stamped, self addressed, postcard with their comments. The docket clerk will indicate on the postcard the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination during normal business hours both before and after the closing date for comments in the public docket examination facility of the Nassif Building at the above address.

FOR FURTHER INFORMATION CONTACT: Alan H. Nagler, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, SW, Washington, DC 20590 (telephone: 202–366–0621).

SUPPLEMENTARY INFORMATION: This interim final rule amends two different regulations to clarify the procedures that will be employed in hearings regarding the determination of an individual's fitness for performing safety-sensitive functions and those involving denial or revocation of certification of locomotive engineers.

Disqualification Proceedings

Section 3(a) of the Rail Safety Improvement Act of 1988 ''RSIA'' (recodified at 49 U.S.C.A. 20111 (c) (1995)) authorizes FRA to disqualify individuals who are shown to be unfit to perform safety-sensitive functions based on the individual's violation of an FRA safety rule, regulation, order or standard. FRA's railroad safety enforcement regulations (49 CFR part 209, subpart D), prescribing procedures for disqualifying individuals from performing safety-sensitive functions in the rail industry, were published in the Federal Register on October 18, 1989 (54 FR 42894). FRA is amending that regulation to permit agency employees to serve as hearing officers and preside over disqualification proceedings rather than limiting selection of persons permitted to perform that function to administrative law judges (ALJs). The change is intended to assure the prompt and efficient conduct of disqualification proceedings in a manner more cost effective for the agency than using only ALJs while still affording administrative due process to those against whom such proceedings are initiated.

In the preamble to the disqualification final rule, FRA raised the preliminary question of whether the RSIA requires formal, trial-type ''on the record'' hearings under 5 U.S.C. 554, 556, and 557. In short, the preamble explained that neither the RSIA nor the legislative history granted an individual a right to an ''on the record'' hearing. Despite this conclusion, FRA chose to afford individuals procedural due process by adopting procedures similar to those set forth for formal hearings under 5 U.S.C. 554, 556, and 557.

As stated in the earlier rule, FRA continues to believe that ''it is essential to promulgate procedures that assure the prompt and efficient conduct of disqualification proceedings under the statute, afford administrative due process to those against whom such proceedings are initiated, and lead to the creation of a record in each individual proceeding that will form the basis for judicial review in the United States District Court without a trial *de novo* of the relevant facts. ''54 FR 42894'' (Oct. 18, 1989). Since this statement was written, review of FRA's final safety actions has been shifted to the federal courts of appeal, which is a further reason for ensuring that an adequate record is developed.

FRA expects that an agency hearing officer will be able to provide the essential due process at the same professional level as an ALJ without the substantial costs to the agency incurred when using ALJs. This change will bring FRA's disqualification regulation into conformity with analogous provisions contained in FRA's locomotive engineer certification regulation (described below) and its rules on hazardous materials and compliance order hearings. Under all of these rules, FRA already has given itself flexibility to use hearing officers other than ALJs. Moreover, this new flexibility in selecting agency personnel to perform this function, in addition to possible continued use of ALJs, has the potential for improving the promptness and efficiency with which these proceedings are conducted.

Engineer Qualifications

The initial final rule establishing qualification standards for locomotive engineers was published in the Federal Register on June 19, 1991 (56 FR 28228). That final rule established the right to an administrative hearing in the event of an adverse Locomotive Engineer Review Board (LERB) decision. See 49 CFR 240.407. This regulation already provides that the presiding officer at

this administrative hearing may be either an ALJ or any person authorized by the FRA Administrator. See 49 CFR 240.409. Therefore, the regulation originally anticipated the use of an FRA hearing officer.

Although no regulatory change is necessary to allow an FRA hearing officer to preside over these administrative proceedings, FRA has identified several procedural issues that are necessary to clarify the process that is to be employed by the presiding officer regardless of whether that person is an agency hearing officer or an ALJ. FRA believes that there is a selected group of changes, which involve improvements to the existing rule's hearing procedures and review processes for revocation decisions regarding locomotive engineer certificates, that should occur immediately. Thus, FRA has decided to issue this interim final rule to make those changes immediately. Prompt adoption of these changes will reduce the confusion caused by wording of the current provisions.

Since the publication of the final rule in June of 1991, a number of engineer qualification cases have been reviewed and several have proceeded to the administrative hearing stage. Based on these proceedings, FRA has identified improved procedures, identified below, to enhance the engineers' qualification program.

This interim final rule contains minor modifications that clarify existing procedural rules applicable to the administrative hearing process; a series of changes made to provide for omitted procedures; and changes to correct typographical errors and minor ambiguities that have been detected since the rule's issuance. In order to make the rule more easily read, the full texts of sections that FRA is changing have been provided where substantial edits or additions have been made.

Analysis of Changes to Part 240

Modification of § 240.7. A definition of ''Administrator'' has been added to make it clear that whoever holds that title or the title of ''Deputy Administrator'' may designate someone to act in his or her stead whenever the regulation requires or empowers the ''Administrator'' to act.

A definition of ''Filing'' has been added to make it clear that any document that requires timely filing under this Part shall be deemed filed only upon receipt by the Docket Clerk.

Modification of § 240.119. Subsection (d)(4)(ii) is being corrected since a typographical error had listed § 219.303(c), a non-existent subsection, as a cross-reference instead of § 219.303.

Modification of § 240.203. Subsection (a) is being corrected since a typographical error had mistakenly listed § 240.115 as § 240.15.

Modification of § 240.205. The title of this section is being corrected because of a typographical error. The word ''base'' has been corrected to ''based.''

Modification of § 240.217. Subsection (c)(1) is being corrected because of a typographical error. The word ''that'' has been corrected to ''than.''

Modification of § 240.307. Subsection (a) is being corrected since a typographical error had listed § 240.119(f), a non-existent subsection, as a cross-reference instead of § 240.119(e). In addition, some minor non-substantive changes have been made to improve the clarity of the paragraph.

Modification of § 240.407. Four separate changes have been made to this section. First, the original wording of § 240.407(a) gave rise to questions regarding the nature of the proceeding contemplated by the existing regulations. Section 240.407(a) initially gave parties adversely affected by a LERB decision ''a right to an administrative hearing concerning that (LERB) decision.'' That language has been replaced by the words ''a right to an administrative hearing as prescribed by § 240.409.'' Although FRA has previously expressed its view as to the proper interpretation to be accorded this provision, confusion continues to exist. The modifications in wording will help clarify that the hearing's primary purpose is to determine anew the underlying facts and the correct application of part 240 to those facts, not to conduct an appellate review of the LERB's decision or the railroad's actions.

FRA's intent in providing the opportunity for an FRA hearing was to permit the parties to have a *de novo* proceeding in which administrative procedural and evidentiary standards will apply.

Second, § 240.407(c) has been modified to clarify that a party that fails to request an administrative hearing in a timely fashion will lose the right to further administrative review due since the LERB's decision will constitute final agency action.

Third, § 240.407(d)(2) has been modified to clarify the petitioner's duty to specify what allegedly needs to be examined in connection with the certification decision in question. The amendment also removes a reference suggesting that the presiding officer is to review the LERB decision.

Fourth, § 240.407(e) has been modified to clarify that FRA does not schedule hearings or set an agenda for the proceeding. FRA merely arranges for the appointment of a presiding officer and it is the presiding officer's duty to schedule the hearing for the earliest practicable date. This modification recognizes that the presiding officer has the discretion to set the pace of the pre-hearing schedule and ultimately schedule the hearing.

Modification of § 240.409. A number of subsections have been changed to more clearly define the nature of the proceeding and a number have been added to provide better procedural guidelines for the conduct of hearings. The specific changes being made are described below.

The proceeding provided by § 240.409 affords an aggrieved party a *de novo* hearing at which the relevant facts can be adduced and the correct application of part 240 can be applied. Thus, a change has been made to § 240.409 to eliminate any reference suggesting that an appellate review of the LERB's decision or a railroad's hearing was intended. This change reflects the intended nature of review of the original rule.

FRA has also recognized that there may be instances when the issues are purely legal, or when only limited factual matters are necessary to determine issues. Therefore, § 240.409(c) has been revised to address this possibility and provides that the presiding officer may determine the issues following an evidentiary hearing only on the disputed factual issues, if any. The presiding officer may therefore grant full or partial summary judgment.

Sections 240.409 (d) through (t) contain a number of new provisions that more explicitly reflect the authority of the presiding officer and that were essentially implicit in the wording of former § 240.409 (b) through (j). For example, the subsections now explicitly authorize discovery and control details of service of filings by the parties in the proceeding. In addition, the subsections also have been amended to explicitly require that documents being submitted by any party must be appropriate matters for filing in the proceeding as well as be signed by the filing party.

As the regulations previously stood, the presiding officer had certain explicit and implicit authority to regulate the conduct of a hearing including discovery. This authority has been used on a case-by-case basis to direct discovery and the course of the separate proceedings. The rules of discovery and practice, which have been used by past presiding officers, have been relatively

uniform and very much the same as the rules herein published in the revised § 240.409. These rules are being published to guarantee greater uniformity and to make litigants aware of the applicable rules from the outset. The following is a discussion of a number of these provisions.

The amended version of § 240.409(d) is an addition which explicitly states that the presiding officer may authorize discovery. It also explicitly authorizes the presiding officer to sanction willful noncompliance with permissible discovery requests. Section 240.409(e) requires that documents in the nature of pleadings be signed. This signature constitutes a certification of factual and legal good faith. Section 240.409(f) states the requirement for service and for certificates of service. A presiding officer's authority to address noncompliance with a law or directive is made express in § 240.409(g). This provision is intended to ensure that the presiding officer has the authority to control the proceeding so that an efficient and fair hearing will result.

Section 240.409(h) states the right of each party to appear and be represented. Section 240.409(i) protects witnesses by ensuring their right of representation and their right to have their representative question them. Section 240.409(j) allows any party to request consolidation or separation of hearings of two or more petitions when to do so would be appropriate under established jurisprudential standards. This option is intended to allow more efficient determination of petitions in cases where a joint hearing would be advantageous. Under § 240.409(k), the presiding officer can, with certain exceptions, extend periods for action required in the proceedings, provided substantial prejudice will not result to a party. The authority to deny a request for extension submitted after the expiration of the period involved shows the preference for use of this authority as a tool to alleviate unforeseen or unnecessary burdens, and not as a remedy for inexcusable neglect.

Section 240.409(l) establishes that a motion is the appropriate method for requests for action made to the presiding officer. This subsection also provides for the form of motions and the response period for written motions. Section 240.409(m) provides rules for the mode of hearing and record maintenance, including requirements for sworn testimony, verbatim record (including oral testimony and argument), and inclusion of evidence or substitutes therefor in the record. Section 240.409(e) in the original regulation has been redesignated as § 240.409(n). The original provisions of §§ 240.409 (f), (g), (h), and (i) are now found in §§ 240.409 (o), (p), (s), and (t), respectively. Except for § 240.409(p), the wording of these subsections has not been altered.

In addition to moving the provisions of former §§ 240.409(g) to 240.409(p), the wording of this subsection has been revised to make party status mandatory. While railroads have chosen to participate in most of the part 240 hearings, we have experienced a few situations where a railroad opted not to be a party where its presence would have been helpful to illuminate certain issues. Hence, we are requiring that both the railroad and the petitioner to the LERB are mandatory parties so that a more logical hearing will take place.

Furthermore, the new § 240.409(p) reflects FRA's view that the railroad involved in each certification case clearly has an interest in the outcome of these proceedings. In most cases, the evidence being introduced at the hearing was initially gathered by the railroad, the railroad's own rules are at the heart of the case, and the railroad will be affected in a variety of ways by any decision rendered. Thus, the regulation provides that the railroad will be a party to the hearing. Given its interest in the outcome of the case, FRA expects that the railroad will be active parties in each case.

The wording of the original § 240.409(k) has been changed and now appears as § 240.409(q) and (r). Experience has shown that the wording of the former provision and FRA's description of its role under that wording is a source of considerable confusion about the roles of various parties in the proceeding. The amended wording of this provision now reflects a refined view of the intended nature of the proceeding and the role of the parties.

Section 240.409(q) reflects FRA's conclusion, based on over three years of experience, that it is more logical and efficient to have the party requesting the hearing carry the burden of proof than to have FRA bear the burden of proving that the LERB decision was correct. The actions at issue in the hearing are those of the engineer and the railroad—not the LERB. Thus, it is appropriate that the engineer and the railroad fill the roles of petitioner and respondent for the hearing. In addition, the burden each party would have if they were the hearing petitioner is articulated in the rule.

Section 240.409(r) clarifies that FRA will continue to be a mandatory party in the proceeding. In all proceedings, FRA will initially be considered a respondent. If, based on evidence acquired after the filing of a petition for hearing, FRA were to conclude that the public interest in safety was more closely aligned with the position of the petitioner than the respondent, FRA could request that the hearing officer exercise his or her inherent authority to realign parties for good cause shown. However, FRA anticipates that such a situation would occur rarely, if ever. Since FRA can realign itself, we want to caution future parties that FRA represents the interests of the government; hence, parties and their representatives should be careful to avoid ethical dilemmas that might arise due to FRA's ability to realign itself.

Modification of § 240.411. Subsection (a) has been modified to provide explicitly that if no appeal is timely filed, the presiding officer's decision constitutes final agency action. This statement is implicit in the rule's construction but has been explicitly clarified so that the parties fully understand the implications of not filing a timely request for an appeal.

Modification of Appendix A. Some minor revisions have been made to the penalty schedule references of §§ 240.221 and 240.305 so that they accurately reflect the language of the regulation. A reference to § 240.201(j) has been eliminated since the regulation does not contain such a subsection. Also, some typographical errors were corrected (*i.e.*, the transposition of §§ 240.307 and 240.309 in the original schedule).

Public Proceedings

The Administrative Procedure Act, specifically 5 U.S.C. 553(b)(3), provides that no notice and comment period is required when an agency modifies rules of internal procedure and practice. Accordingly, this regulation is issued without provision of such a period of comment prior to its adoption.

Although not required to provide notice and opportunity for comment in such a proceeding, FRA frequently does provide notice and opportunity for comment even on its procedural rules. FRA has not chosen that course of action here because it concludes that such notice and comment would be impracticable, unnecessary, and contrary to the public interest. A number of these changes are critical to the effective implementation of these rules and the delay that notice and comment would cause would be contrary to the public interest in railroad safety. The beginning of a new fiscal year on October 1, 1995, provides some urgency because budgetary constraints will require the use of

internal hearing officers on all but emergency matters at the conclusion of Fiscal Year 1995. Moreover, the orderly implementation of part 240 requires prompt revision of its hearing procedures.

Despite the need for prompt action, FRA is soliciting comments on this rule and will consider those comments in determining whether there is a need to take further action to improve these regulations. For this reason, FRA has issued this as an interim final rule so that it can take effect while any comments are being considered. If comments persuade FRA that amendments are necessary, it will address them in a subsequent notice. Written comments must be submitted no later than November 13, 1995.

Regulatory Impact

E.O. 12866 and DOT Regulatory Policies and Procedures

This interim final rule has been evaluated in accordance with existing regulatory policies and is considered to be nonsignificant under Executive Order 12866 and is not significant under the DOT policies and procedures (44 FR 11034; February 26, 1979).

Regulatory Flexibility Act

FRA certifies that this rule will not have a significant economic impact on a substantial number of small entities. These rules will apply to railroads. Although a substantial number of small railroads are subject to this regulation, the economic impact of this amendment to the rule will not be significant since it only clarifies existing provisions and makes technical changes to procedural rules which should, to the extent of change, result in more efficient and more economical proceedings.

These amendments to the basic rule will have no direct impact on small units of government, businesses, or other organizations. State rail agencies are not required to participate in this program. This amendment's changes do not involve any part of the program in which state rail agencies would participate, if they chose to participate in the program as a whole.

Paperwork Reduction Act

There are no new collection of information requirements contained in this rule and, in accordance with the Paperwork Reduction Act of 1980, the record keeping and reporting requirements already contained in this rule have been approved by the Office of Management and Budget. The OMB approval number was published in a previous amendment to part 240. The information collection requirements of this rule became effective when they were approved by OMB.

Environmental Impact

FRA has evaluated this regulation in accordance with its procedure for ensuring full consideration of the environmental impacts of FRA actions as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and related directives. This regulation meets the criteria that establish this as a non-major action for environmental purposes.

Federalism Implications

This rule will not have a substantial effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Thus in accordance with Executive Order 12612, preparation of a Federalism Assessment is not warranted.

List of Subjects

49 CFR Part 209

Railroad safety, Disqualification procedures.

49 CFR Part 240

Railroad safety, Railroad operating procedures.

The Part 209 Rule

Therefore, in consideration of the foregoing, FRA amends part 209, Title 49, Code of Federal Regulations to read as follows:

PART 209—[AMENDED]

1. The authority citation for Part 209, Disqualification Procedures, is revised to read as follows:

Authority: 49 U.S.C. Chs. 51, 57, and 201–213; 49 CFR 1.49.

2. Section 209.321 is amended by revising paragraph (a) to read as follows:

§ 209.321 Hearing.

(a) Upon receipt of a hearing request complying with § 209.311, an administrative hearing for review of a notice of proposed disqualification shall be conducted by a presiding officer, who can be any person authorized by the FRA Administrator, including an administrative law judge. The hearing shall begin within 180 days from receipt of respondent's hearing request. Notice of the time and place of the hearing shall be given to the parties at least 20 days before the hearing. Testimony by witnesses shall be given under oath and the hearing shall be recorded verbatim. The hearing shall be open to the public, unless the presiding official determines that it would be in the best interests of the respondent, a witness, or other affected persons, to close all or any part of it. If the presiding official makes such a determination, an appropriate order, which sets forth the reasons therefor, shall be entered.

* * * * *

The Part 240 Rule

Therefore, in consideration of the foregoing, FRA amends part 240, title 49, Code of Federal Regulations to read as follows:

PART 240—[AMENDED]

1. The authority citation for Part 240 is revised to read as follows:

Authority: 49 U.S.C. Chs. 201–213; 49 CFR 1.49.

2. Section 240.7 is amended to add the following definitions:

§ 240.7 Definitions.

Administrator means the Administrator of FRA, the Deputy Administrator of FRA, or the delegate of either.

* * * * *

Filing means that a document to be filed under this Part shall be deemed filed only upon receipt by the Docket Clerk.

* * * * *

3. Section 240.119 is amended by revising the first sentence of paragraph (d)(4)(ii) to read as follows:

§ 240.119 Criteria for consideration of data on substance abuse disorders and alcohol drug rules compliance.

* * * * *

(d) * * *

(4) * * *

(ii) Analysis of a blood specimen for alcohol in the same manner as prescribed in § 219.303 of this chapter.***

* * * * *

4. Section 240.203 is amended by revising paragraph (a)(1) to read as follows:

§ 240.203 Determinations required as a prerequisite to certification.

(a) * * *

(1) The individual meets the eligibility requirements of §§ 240.115, 240.117 and 240.119; and

* * * * *

5. Section 240.205 is amended by revising the section heading:

§ 240.205 Procedures for determining eligibility based on prior safety conduct.

* * * * *

6. Section 240.217 is amended by revising paragraph (c)(1) to read as follows:

§ 240.217 Time limitations for making determinations.

* * * * *

(c) * * *

(1) Certify a person as a qualified locomotive engineer for an interval of more than 36 months; or

* * * * *

7. Section 240.307 is amended by revising paragraph (a) to read as follows:

§ 240.307 Revocation of certification.

(a) Except as provided for in § 240.119(e), a railroad that certifies or recertifies a person as a qualified locomotive engineer and, during the period that certification is valid, acquires information which convinces the railroad that the person no longer meets the qualification requirements of this Part, shall revoke the person's certificate as a qualified locomotive engineer.

* * * * *

8. Section 240.407 is revised to read as follows:

§ 240.407 Request for a hearing.

(a) If adversely affected by the Locomotive Engineer Review Board decision, either the petitioner before the Board or the railroad involved shall have a right to an administrative proceeding as prescribed by § 240.409.

(b) To exercise that right, the adversely affected party shall file with the Docket Clerk a written request within 20 days of service of the Board's decision on that party.

(c) The result of a failure to request a hearing within the period provided in paragraph (b) of this section is that the Locomotive Engineer Review Board's decision will constitute final agency action.

(d) If a party elects to request a hearing, that person shall submit a written request to the Docket Clerk containing the following:

(1) The name, address, and telephone number of the respondent and the requesting party's designated representative, if any;

(2) The specific factual issues, industry rules, regulations, or laws that the requesting party alleges need to be examined in connection with the certification decision in question; and

(3) The signature of the requesting party or the requesting party's representative, if any.

(e) Upon receipt of a hearing request complying with paragraph (d) of this section, FRA shall arrange for the appointment of a presiding officer who shall schedule the hearing for the earliest practicable date.

9. Section 240.409 is revised to read as follows:

§ 240.409 Hearings.

(a) An administrative hearing for a locomotive engineer qualification petition shall be conducted by a presiding officer, who can be any person authorized by the Administrator, including an administrative law judge.

(b) The presiding officer may exercise the powers of the Administrator to regulate the conduct of the hearing for the purpose of achieving a prompt and fair determination of all material issues in controversy.

(c) The presiding officer shall convene and preside over the hearing. The hearing shall be a *de novo* hearing to find the relevant facts and determine the correct application of this part to those facts. The presiding officer may determine that there is no genuine issue covering some or all material facts and limit evidentiary proceedings to any issues of material fact as to which there is a genuine dispute.

(d) The presiding officer may authorize discovery of the types and quantities which in the presiding officer's discretion will contribute to a fair hearing without unduly burdening the parties. The presiding officer may impose appropriate non-monetary sanctions, including limitations as to the presentation of evidence and issues, for any party's willful failure or refusal to comply with approved discovery requests.

(e) Every petition, motion, response, or other authorized or required document shall be signed by the party filing the same, or by a duly authorized officer or representative of record, or by any other person. If signed by such other person, the reason therefor must be stated and the power of attorney or other authority authorizing such other person to subscribe the document must be filed with the document. The signature of the person subscribing any document constitutes a certification that he or she has read the document; that to the best of his or her knowledge, information and belief every statement contained in the document is true and no such statements are misleading; and that it is not interposed for delay or to be vexatious.

(f) After the request for a hearing is filed, all documents filed or served upon one party must be served upon all parties. Each party may designate a person upon whom service is to be made when not specified by law, regulation, or directive of the presiding officer. If a party does not designate a person upon whom service is to be made, then service may be made upon any person having subscribed to a submission of the party being served, unless otherwise specified by law, regulation, or directive of the presiding officer. Proof of service shall accompany all documents when they are tendered for filing.

(g) If any document initiating, filed, or served in, a proceeding is not in substantial compliance with the applicable law, regulation, or directive of the presiding officer, the presiding officer may strike or dismiss all or part of such document, or require its amendment.

(h) Any party to a proceeding may appear and be heard in person or by an authorized representative.

(i) Any person testifying at a hearing or deposition may be accompanied, represented, and advised by an attorney or other representative, and may be examined by that person.

(j) Any party may request to consolidate or separate the hearing of two or more petitions by motion to the presiding officer, when they arise from the same or similar facts or when the matters are for any reason deemed more efficiently heard together.

(k) Except as provided in § 240.407(c) of this part and paragraph (u)(4) of this section, whenever a party has the right or is required to take action within a period prescribed by this part, or by law, regulation, or directive of the presiding officer, the presiding officer may extend such period, with or without notice, for good cause, provided another party is not substantially prejudiced by such extension. A request to extend a period which has already expired may be denied as untimely.

(l) An application to the presiding officer for an order or ruling not otherwise specifically provided for in this part shall be by motion. The motion shall be filed with the presiding officer and, if written, served upon all parties. All motions, unless made during the hearing, shall be written. Motions made during hearings may be made orally on the record, except that the presiding officer may direct that any oral motion be reduced to writing. Any motion shall state with particularity the grounds therefor and the relief or order sought, and shall be accompanied by any affidavits or other evidence desired to be relied upon which is not already part of the record. Any matter submitted in response to a written motion must be filed and served within fourteen (14) days of the motion, or within such other period as directed by the presiding officer.

(m) Testimony by witnesses at the hearing shall be given under oath and the hearing shall be recorded verbatim. The presiding officer shall give the parties to the proceeding adequate opportunity during the course of the hearing for the presentation of arguments in support of or in opposition to motions, and objections and exceptions to rulings of the presiding officer. The presiding officer may permit oral argument on any issues for which the presiding officer deems it appropriate and beneficial. Any evidence or argument received or proffered orally shall be transcribed and made a part of the record. Any physical evidence or written argument received or proffered shall be made a part of the record, except that the presiding officer may authorize the substitution of copies, photographs, or descriptions, when deemed to be appropriate.

(n) The presiding officer shall employ the Federal Rules of Evidence for United States Courts and Magistrates as general guidelines for the introduction of evidence. Notwithstanding paragraph (m) of this section, all relevant and probative evidence shall be received unless the presiding officer determines the evidence to be unduly repetitive or so extensive and lacking in relevancy that its admission would impair the prompt, orderly, and fair resolution of the proceeding.

(o) The presiding officer may:

(1) Administer oaths and affirmations;

(2) Issue subpoenas as provided for in § 209.7 of part 209 in this chapter;

(3) Adopt any needed procedures for the submission of evidence in written form;

(4) Examine witnesses at the hearing;

(5) Convene, recess, adjourn or otherwise regulate the course of the hearing; and

(6) Take any other action authorized by or consistent with the provisions of this part and permitted by law that may expedite the hearing or aid in the disposition of the proceeding.

(p) The petitioner before the Locomotive Engineer Review Board, the railroad involved in taking the certification action, and FRA shall be parties at the hearing. All parties may participate in the hearing and may appear and be heard on their own behalf or through designated representatives. All parties may offer relevant evidence, including testimony, and may conduct such cross-examination of witnesses as may be required to make a record of the relevant facts.

(q) The party requesting the administrative hearing shall be the ''hearing petitioner.'' The hearing petitioner shall have the burden of proving its case by a preponderance of the evidence. Hence, if the hearing petitioner is the railroad involved in taking the certification action, that railroad will have the burden of proving that its decision to deny certification, deny recertification, or revoke certification was correct. Conversely, if the petitioner before the Locomotive Engineer Review Board is the hearing petitioner, that person will have the burden of proving that the railroad's decision to deny certification, deny recertification, or revoke certification was incorrect. Between the petitioner before the Locomotive Engineer Review Board and the railroad involved in taking the certification action, the party who is not the hearing petitioner will be a respondent.

(r) FRA will be a mandatory party to the administrative hearing. At the start of each proceeding, FRA will be a respondent.

(s) The record in the proceeding shall be closed at the conclusion of the evidentiary hearing unless the presiding officer allows additional time for the submission of additional evidence. In such instances the record shall be left open for such time as the presiding officer grants for that purpose.

(t) At the close of the record, the presiding officer shall prepare a written decision in the proceeding.

(u) The decision:

(1) Shall contain the findings of fact and conclusions of law, as well as the basis for each concerning all material issues of fact or law presented on the record;

(2) Shall be served on the hearing petitioner and all other parties to the proceeding;

(3) Shall not become final for 35 days after issuance;

(4) Constitutes final agency action unless an aggrieved party files an appeal within 35 days after issuance; and

(5) Is not precedential.

10. Section 240.411 is amended by revising paragraph (a) to read as follows:

§ 240.411 Appeals.

(a) Any party aggrieved by the presiding officer's decision may file an appeal. The appeal must be filed within 35 days of issuance of the decision with the Federal Railroad Administrator, 400 Seventh Street SW., Washington, DC 20590. A copy of the appeal shall be served on each party. The appeal shall set forth objections to the presiding officer's decision, supported by reference to applicable laws and regulations and with specific reference to the record. If no appeal is timely filed, the presiding officer's decision constitutes final agency action.

* * * * *

11. Appendix A to Part 240 is amended by revising the penalty entries for §§ 240.201, 240.221, 240.305, 240.307, and 240.309 to read as follows:

APPENDIX A TO PART 240.—SCHEDULE OF CIVIL PENALTIES

Section	Violation	Willful violation
* * * * * * *		
240.201—Schedule for implementation:		
(a) Failure to select supervisors by specified date	1,000	2,000
(b) Failure to identify grandfathered engineers	2,000	4,000
(c) Failure to issue certificate to engineer	1,000	2,000
(d) Allowing uncertified person to operate	5,000	10,000
(e–g) Certifying without complying with subpart C	2,500	5,000
(h–i) Failure to issue certificate to engineer	1,000	2,000
* * * * * * *		
240.221–Identification of persons:		
(a–c) Failure to have a record	2,000	4,000
(d) Failure to update a record	2,000	4,000
(e–f) Failure to make a record available	1,000	2,000

APPENDIX A TO PART 240.—SCHEDULE OF CIVIL PENALTIES—Continued

Section	Violation	Willful violation
* * * * * * *		
240.305—Prohibited conduct:		
(a) Unlawful:		
(1) control of speed	2,500	5,000
(2) passing of stop signal	2,500	5,000
(3) occupancy of main track without authority	2,500	5,000
(b) Failure of engineer to:		
(1) carry certificate	1,000	2,000
(2) display certificate when requested	1,000	2,000
(c) Failure of engineer to notify railroad of limitations or railroad requiring engineer to exceed limitations	4,000	8,000
(d) Failure of engineer to notify railroad of denial or revocation	4,000	8,000
* * * * * * *		
240.307—Revocation of certification:		
(a) Failure to withdraw person from service	2,500	5,000
(b) Failure to notify, provide hearing opportunity; or untimely procedures	2,000	4,000
240.309—Oversight responsibility report		
(a) Failure to report or to report on time	500	1,000
(b–f) Incomplete or inaccurate report	2,000	4,000
* * * * * * *		

* * * * * *

Issued in Washington, DC, on September 29, 1995.

Jolene M. Molitoris,

Administrator.

[FR Doc. 95–25183 Filed 10–11–95; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 228

[Docket No. 950823213–5213–01; I.D. 102792B]

RIN 0648–AD25

Incidental Take of Marine Mammals; Bottlenose Dolphins and Spotted Dolphins

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS is issuing regulations authorizing and governing the taking of bottlenose and spotted dolphins incidental to the removal of oil and gas drilling and production structures in state waters and on the Outer Continental Shelf (OCS) in the Gulf of Mexico. The incidental taking of small numbers of marine mammals is authorized by the Marine Mammal Protection Act (MMPA), if certain findings are made and regulations are issued that include requirements for monitoring and reporting. These regulations do not authorize the removal of the rigs as such authorization is provided by the Minerals Management Service (MMS) and is not within the jurisdiction of NMFS. Rather, these regulations authorize the unintentional incidental take of marine mammals in connection with such activities and prescribe methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat.

EFFECTIVE DATE: November 13, 1995, through November 13, 2000.

ADDRESSES: Copies of the Environmental Assessment (EA), proposed rule, and application may be obtained by writing to the Chief, Marine Mammal Division, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910–3282 or by telephoning the contact listed below.

Comments regarding the burden-hour estimate or any other aspect of the collection of information requirement contained in this rule should be sent to the above individual and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: NOAA Desk Officer, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, (301) 713–2055.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, if certain findings are made, and regulations are issued. Under the MMPA, the term ''taking'' means to harass, hunt, capture or kill or to attempt to harass, hunt, capture or kill.

Permission may be granted for periods up to 5 years if NMFS finds, after notice and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, NMFS must prescribe regulations that include permissible methods of taking and other means effecting the least practicable adverse impact on the species and its habitat, and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating grounds and areas of similar significance. The regulations must include requirements pertaining to the monitoring and reporting of such taking.

In 1986, the MMPA and the Endangered Species Act (16 U.S.C. 1531–1543; the ESA) were amended to allow incidental takings of depleted, endangered, or threatened marine mammals. Before the 1986 amendments, section 101(a)(5) applied only to nondepleted marine mammals.

Summary of Request

On October 30, 1989, NMFS received a request from the American Petroleum

Institute (API) for an incidental take of bottlenose dolphins (*Tursiops truncatus*) and spotted dolphins (*Stenella frontalis*). API is representing operators who remove oil and gas drilling and production structures and related facilities in the Gulf of Mexico in state and Federal waters adjacent to the coasts of Texas, Louisiana, Mississippi, Alabama, and Florida. NMFS requested information and invited public comment on the request on January 30, 1990 (55 FR 3074). As a result of several requests, NMFS extended the comment period until April 16, 1990 (55 FR 10475, March 21, 1990). A number of comments were received on the initial request and, based upon the comments, the API amended it's request and resubmitted it to NMFS on December 13, 1990. NMFS again requested information and comments on the revised request on March 25, 1991 (58 FR 12361). That comment period closed on May 9, 1991.

API estimates that 670 structures will be removed in the Gulf of Mexico over a 5-year authorization period. While most of the structures are in water less than 100 ft (30.5 meters (m)) deep, a few may be in deeper water. A longer range plan estimates that about 5,500 structures will be removed in a 35-year period. Some structures have already been removed using the methods described by the API. The most frequently used procedure is to wash the soil from inside the piling, lower an explosive charge to 15 ft (4.6 m) below the mudline, and detonate the charge, which cuts the piling.

Under section 7 of the ESA, NMFS has consulted with the MMS of the Department of the Interior on the effects upon endangered and threatened sea turtles of the removal of oil and gas structures in the Gulf of Mexico. As a result of these consultations, NMFS requires the MMS and the U.S. Army Corps of Engineers (Corps), of the Department of Defense, to employ the following measures to minimize adverse impacts to listed species: (1) The use of qualified observers; (2) the conduct of 30-minute aerial surveys within 1 hour before and after detonation; (3) if sea turtles are observed within 1,000 yds (914 m) of the blast site, the delay of blast(s) until successful attempts remove the turtles at least 1,000 yds (914 m) from the site; (4) the detonation of explosives no sooner than 1 hour following sunrise and no later than 1 hour prior to sunset; and (5) the staggering of charges by at least 0.9 seconds to minimize the cumulative effects of the blasts. However, under section 7 these measures may be modified by NMFS whenever the conditions under which the section 7 consultation was conducted are modified. Under such situations, the MMS is required to reinitiate consultation with NMFS.

While bottlenose and spotted dolphins are not listed as threatened or endangered under the ESA, they are protected under the authority of the MMPA. Therefore, applicants must receive an authorization under the MMPA before a take is allowed. Similar to the case for sea turtles, impacts to dolphins would come from exposure to sound and pressure waves associated with detonating the explosives. API states that the most likely form of incidental take as a result of structure removals is harassment from low level sound and pressure waves. However, animals close enough to the detonation could be injured or killed as a result of tissue destruction. In recognition of this, removal operators have been employing the mitigation measures for sea turtles to protect dolphins as well, and API has filed the subject request for the taking of small numbers of bottlenose and spotted dolphins, by incidental harassment only, under the MMPA.

Comments and Responses on the Proposed Rule

On June 17, 1993 (58 FR 33425), NMFS published for public review and comment a proposed rule to authorize and govern the unintentional taking of a small number of bottlenose and spotted dolphins incidental to the removal of oil and gas drilling and production structures in state waters and on the OCS in the Gulf of Mexico for a period of 5 years. During the 60-day comment period, NMFS received 7 letters commenting on the proposed rule. These comments and pertinent comments received during the two petition reviews (55 FR 3074, January 30, 1990 and 56 FR 12361, March 25, 1991) are addressed below.

Comment: One commenter believed that section 101(a)(5) of the MMPA, under which the API is seeking permission for an unintentional take, is not appropriate for this purpose, as it was written to allow for indigenous groups to fish for subsistence.

Response: NMFS does not agree. Section 101(a)(5) of the MMPA was enacted in 1981 specifically to provide a means to authorize incidental takes in connection with legitimate maritime activities other than commercial or subsistence fishing. Prior to 1981, these incidental takes were prohibited by the MMPA's moratorium on taking and any such takings were subject to prosecution under the MMPA.

Comment: One commenter believed it was unclear why the structures must be removed * * * given that they have probably become * * * home to many sea creatures. Another commenter inquired on the fate of the structures and a third believed that the impacts of structure removals should be addressed in the EA.

Response: Paragraph 5 of Article 5 of the 1958 Continental Shelf Convention, a treaty to which the United States is a party, states that any installations which are abandoned or disused must be entirely removed. The Outer Continental Shelf Lands Act (1953) gives broad authority to the Secretary of the Interior to administer leasing of the OCS and to prescribe rules and regulations for the prevention of waste and conservation of the natural resources of the OCS. The Secretary of the Interior has exercised that authority through regulations and standard leasing terms. Regulations (30 CFR 250.143(a) and (b)) published on April 1, 1988, require that ''[t]he lessee shall remove all structures in a manner approved by the Regional Supervisor to assure that the location has been cleared of all obstructions to other activities in the area.'' ''All platforms (including casing, wellhead equipment, templates, and piling) shall be removed by the lessee to a depth of at least 15 feet below the ocean floor or to a depth approved by the Regional Supervisor * * *.'' In other words, removing structures allows for other uses of the OCS, such as shrimp trawling, while leaving structures upright and in place may pose a hazard to navigation. Alternatives to rig removals and their impacts on the environment were discussed by MMS in a Programmatic Environmental Assessment in 1987.[1]

All structures removed to date in U.S. waters have been salvaged either for reuse at another location, converted into an artificial reef (State rigs to reefs programs), or returned to shore for disposal.

Comment: One commenter believed it was unclear in the notice of proposed rulemaking why the structures must be blown up and that a less extreme and less damaging means of removal must be seriously evaluated and incorporated into the final rule. Other commenters expressed the opinion that sufficient attention had not been placed on alternative (nonexplosive) means for removing the structure.

[1] MMS, 1987. Structural Removal Activities Central and Western Gulf of Mexico Planning Areas. Programmatic Environmental Assessment. OCS EIS/EA MMS 87–0002.

Response: Structures are not blown-up as the term might commonly be interpreted. Prior to detonation, the deck sections (superstructure) are removed from the site leaving only the main piles, wellheads, connectors and jackets. Explosives are limited to an amount sufficient only to sever the wellhead and piles below the surface of the seabed.

According to MMS, while the use of mechanical cutters and underwater arc cutters may be successful in some circumstances, and would not produce the impulse and pressure forces associated with the detonation of explosives, a failure of the cutters would necessitate a larger explosive charge than would otherwise be required since the explosive shock wave would propagate through the partial cuts already made by the mechanical cutter. Further, in most instances, these methods are more time consuming, costly, and more hazardous to divers. Because of this, these methods are not used on a routine basis (approximately 7 percent verses 93 percent for explosives (MMS, 1987)). However, a recent report by the Government Accounting Office [2] indicates that although the use of nonexplosives for removal has increased in recent years (34 percent verses 66 percent removed using explosives) sufficient effort has not been expended by MMS to develop nonexplosive means for removal of offshore rigs. For that reason, NMFS encourages the development of these nonexplosive methods and will review progress during the 5-year term of these regulations, to determine whether a small take authorization is warranted in future years. In this regard, NMFS will request, prior to any reauthorization for this activity under section 101(a)(5), that MMS submit a report under 50 CFR 228.4(a)(9) on the development of nonexplosive technology.

Comment: One commenter stated that it was not clear what assumptions were made and what variables were considered to make the determination that pressure waves generated by the explosives will dissipate within 1,000 yd (914 m), under all circumstances, to levels which will not cause tissue or hearing damage. Also, it is not clear whether the calculations were based upon the largest explosive charges that might be used, or whether additional studies will be done to verify that sound pressure waves generated by explosive removals will dissipate to biologically insignificant levels within 1,000 yd (914 m) under all circumstances likely to be encountered.

Response: While the API application does not mention an upper limit for size of explosives, in one place it considers a 50–pound (lb) (22.7 kg) charge to be a ''worst case,'' and throughout the application the API uses 50 lbs as the standard for calculation of impact on marine mammals. However, a review of section 7 biological opinions on rig removals on file with NMFS indicates that on rare occasions explosives of 75 lbs or greater have been utilized. Therefore, to avoid potential injury to marine mammals and to make clear the level of explosives authorized under this exemption, NMFS has modified the proposed rule to limit explosives to a pressure level equivalent to the pressure generated by a 50–lb (22.7 kg) explosive charge detonated outside the rig piling. For example, under these regulations, a charge greater than 200 lbs may not be detonated inside a piling that has its top above the waterline (see below for rationale), a charge greater than 100 lbs may not be detonated in a pile with its top below the waterline and a charge greater than 50 lbs may not be detonated exterior to the pile. Please refer to the EA for additional information on this subject.

On the basis of formulas by Hill (1978) [3] and Yelverton (1973), the distance at which no injury will occur from a 50-lb (22.7 kg) explosive charge detonated in open water is 2,044 ft (623 m). Use of these same formulas indicates that injuries, such as eardrum rupture, could occur at a distance of 872.7 ft (266 m). While these distances are based upon data from terrestrial mammals, Hill (1978) has suggested that these distances probably overestimate the zones of physical influence of shock waves on marine mammals, because marine mammals have adapted to pressure for deep diving and increased protection due to their thick body walls. One commenter countered that this may be misleading as water is less compressible than air. While it is true that water is less compressible than air, it should be explained that these explosives tests were conducted in water, but on terrestrial animals. Obviously, conducting tests on the effects of explosives on live marine mammals would be controversial and an authorization may be difficult for a scientific research applicant to obtain under the MMPA. For that reason, NMFS and others base their impact assessments on mathematical calculations, supported by test data using small charges on alternative test animals.

In addition to the above research, Goertner (1982) used the results from experimental data on terrestrial animals to develop a computer simulation model for determining the region of injury to marine mammals subjected to an underwater explosion. For a 50–lb (22.7 kg) explosive charge, the model's contour plot for slight injury indicated that slight injury could occur 936 ft (285.3 m) and 1,352 ft (412.1 m) from the explosion in open water for an adult and calf bottlenose dolphin, respectively (see the application or the EA for a detailed explanation).

Because the Hill (1978) and Yelverton (1973) tests were conducted in open water, Connor (1990) determined that detonation below the mud line inside the casing resulted in a reduction of peak pressure of 50 percent compared to an open water test when the pile top is below the water surface and 75 percent when the pile top is above the water surface. Therefore, based upon these determinations, bottlenose dolphins (including calves) would be unlikely to sustain injury unless they were closer than 676 ft (206 m) for structures not reaching the water surface or 225 ft (68.6 m) for structures above the water surface (the majority of structures). As NMFS has adopted conservative safety zones to protect marine mammals from the explosives, NMFS does not believe that it is necessary to repeat these experiments, as one commenter suggests. Because NMFS has previously determined in Biological Opinions that an area of 1,000 yd (3,000 ft; 914.4 m) must be free of sea turtles before detonation can take place, and as this distance, which has been adopted by the industry for several years as the marine mammal safety zone, is significantly greater than the distance to preclude injury to bottlenose and spotted dolphins, no injuries to marine mammals are anticipated to occur provided this area does not contain any marine mammals. For that reason, if bottlenose or spotted dolphins are observed in the vicinity of the platform within 910 m (1,000 yd; 3,000 ft) of the site, detonation must not be carried out until the area is clear of dolphins or sea turtles. Because of the relatively shallow depth of the water for most structure removals (less than 100 ft (30.5 m)), the surface affinity of the requested species of marine mammals, and their relatively short dive sequences, no injuries or deaths of marine mammals are anticipated provided the mitigation measures required by the regulations are followed.

[2] U.S. Government Accounting Office. 1994. Offshore Oil and Gas Resources: Interior Can Improve Its Management of Lease Abandonment. GAO/RCED–94–82. 46pp.

[3] Reference citations can be found in the EA on this action (see **ADDRESSES**).

Comment: One commenter was concerned that the NMFS estimate that a marine mammal would need to be 910 m from a structure being removed before it would be safe seems very conservative in light of the computer model referred to. If the explosion of a 1,200-lb (544 kilogram (kg)) charge in open water might hurt a susceptible dolphin calf 4,000 ft (1,200 m) away, the range of harm from a 50–lb (22.7 kg) charge set at 15 ft (5 m) below the mud line inside a piling would, to a lay person, be expected to have a very much smaller area of impact than is postulated.

Response: NMFS agrees with this comment. However, because there can be instances when it may be necessary to detonate a 50–lb (22.7 kg) charge exterior to the pipe, NMFS has adopted this possible situation as the worst-case scenario under the application. As stated above, for a 50–lb (22.7 kg) explosive charge, contour plots indicated that slight injury could occur 936 ft (285.3 m) and 1,352 ft (412.1 m) from the explosion in open water for an adult and calf bottlenose dolphin, respectively. However, the safety range for sea turtles has been determined, through experimentation, in a Biological Opinion under section 7 of the ESA to be 3,000 ft (914 m). For consistency therefore, that range has been determined appropriate as a safety range for marine mammals also.

Comment: Several commenters noted that there are at least 30 species of marine mammals reported in the Gulf of Mexico and that conceivably could be present, at least occasionally, in areas where they could be affected by structure removal. Therefore, it is unclear to the commenter why the rule would authorize the possible incidental taking of only bottlenose dolphins and spotted dolphins. One commenter recommended that either the rule be changed to authorize the incidental taking of small numbers of any marine mammal that reasonably can be expected to occur in the northern Gulf of Mexico or specifically limiting the incidental take to the two species, noting that taking of any other marine mammal species would constitute a violation of the MMPA.

Response: The API, in it's application, requested the incidental take of bottlenose and spotted dolphins, because these two species were the only marine mammal species recorded by NMFS observers within the area of the structures. The results of recent (i.e., 1983–91) Southeast Fisheries Science Center (SEFSC) aerial and vessel surveys for cetaceans in the Gulf of Mexico indicate that the bottlenose dolphin is the most common cetacean in these waters, accounting for more than 95 percent of the sightings. Spotted dolphins were the second most frequently sighted in waters greater than 200 m. depth. However, NMFS notes that because there are two species of spotted dolphins in the Gulf of Mexico, *S. frontalis* and *S. attenuata*, and distinguishing between the two by observers is difficult, both these species will be included under the request for spotted dolphins. SEFSC scientists indicate that the probability of cetaceans other than these species being incidentally taken is remote. Therefore, NMFS does not consider it necessary, at this time, to require the applicant to request additional species.

In the event, marine mammal species other than those requested are taken (i.e., harassed, injured or killed) or if, bottlenose and/or spotted dolphins are injured or killed, such takings would be in violation of the MMPA, the regulations (modified as a result of this comment) and any Letters of Authorization (LOA) issued as a result of this rulemaking. Alternatively, if a nonrequested species of marine mammal is seen in the area prior to the detonation, but not taken because the detonation is delayed until the animal leaves, then the API may elect to request an amendment to its LOA and the authorizing regulations for future detonations.

Mitigation and Monitoring

Comment: One commenter recommended that the rule either (1) be expanded to specify and explain the rationale for situations when the onsite NMFS representative would be authorized to waive any of the mitigation or monitoring requirements, or (2) be changed to prohibit detonation of explosives when, for any reason, adequate monitoring cannot be done to ensure, with a high degree of certainty, that there are no marine mammals within the area where tissue damage or hearing damage could occur.

Response: NMFS agrees with the comment and has modified the regulations to prohibit detonations whenever the pre-detonation aerial survey monitoring requirements cannot be conducted within the time frame specified in the regulations and to limit detonations to a daylight time period.

Comment: Several commenters noted that dolphins killed as a result of the detonations, tend to sink after death and float to the surface as decomposition begins. Therefore, to evaluate the numbers of dolphins killed, but not detected floating at the surface following the blast, surveys should be undertaken at appropriate periods following removal of the oil and gas structures.

Response: NMFS agrees with this comment. As a result, NMFS will require holders of the LOAs or their contractors to undertake marine mammal/sea turtle assessment surveys after the detonation. However, because aerial and ship surveys are expensive and because the lethal range of these explosive charges are limited, NMFS has modified the monitoring requirements to accommodate concerns for the protection of the dolphins and the cost of conducting surveys. One modification is that the NMFS observer may waive the second post-detonation monitoring provided no marine mammals are sighted during either the required 48 hour pre-detonation monitoring period or the pre-detonation aerial survey. Another modification is that surveys, if required, can either be by divers using dark-water search methods or remotely-operated vehicles of the site (if visibility permits) within 24 hours of any detonation event at a site, or by either an aerial or ship survey of the area no sooner than 48 hours and no longer than 7 days after the detonation. Post-detonation ship or aerial surveys are to concentrate efforts down-current of the site. LOAs will contain specific monitoring requirements.

Also, because the seabed must be systematically trawled to ensure that no structures or debris remain above the seabed surface after detonation, any dead cetaceans or sea turtles, remaining on the scene, should eventually be recovered. Operators of this equipment would be required to report any recovered animals to the LOA holder, who would be required to report the incident to NMFS.

Reporting Requirements

Comment: One commenter requested that data from the monitoring reports be compiled and compared, periodically, with marine mammal stranding data to determine if there are any possible correlations between strandings and structure removals.

Response: NMFS agrees with this comment and will conduct this review.

Comment: One commenter recommended changing the report submittal time requirement of § 228.44(d) from 15 working days to 30 calendar days. This, the commenter remarks, would allow industry a little more time to prepare the required report.

Response: NMFS agrees and has modified the final rule to allow 30 calendar days for submitting the report to NMFS (note that the citation now

reads § 228.45(d)). Compliance with this requirement does not relieve the operator from having to comply with MMS' and/or Corps' reporting requirements.

Comment: This same commenter, for the same reasons, also believed that reporting should be on an exception basis only (i.e., if the NMFS-approved onsite observers or other personnel have an indication that a taking has occurred). A precedent for authorizing incidental taking without prior registration and requiring only exemption reporting is found at 50 CFR 229.7 for commercial fishing vessels in Category III areas (those having only a remote likelihood of incidental taking).

Response: NMFS disagrees. Activity reports (as opposed to marine mammal taking reports) are required by NMFS, among other reasons, to correlate stranding data with explosives detonations. NMFS recognizes however, that often the work is performed by contractors for the holder of a LOA. To avoid an unnecessary paperwork burden on holders, NMFS will accept the observer report as the activity report if all requirements for reporting contained in the LOA are provided to the observer before that person completes his/her report. However, in most cases the observer will have departed prior to completion of monitoring, necessitating a report by the LOA Holder.

Comment: One commenter also recommends that § 228.44(d) be expanded to specify that post-removal reports must describe the nature and location of the structure removed; the date, time, and manner by which the structure was removed; the weather conditions during the pre- and post-removal surveys; the nature and results of the pre- and post-removal marine mammal surveys; any actions taken to cause or encourage animals to leave the area where they might be killed or injured by explosive detonations; and any incidents where animals were, or may have been killed or injured as a result of structure removal.

Response: NMFS agrees with the intent of this comment. NMFS prefers to allow some flexibility in making site-specific requirements however, and therefore will impose these requirements through the LOA rather than these regulations.

Letters of Authorization

Comment: One commenter recommended that the rule be expanded to require that requests for a LOA include a description of the procedures that will be used to (1) detect the presence of marine mammals in and near the area where they could be affected by structure removal; (2) ensure, with a high degree of certainty, that no marine mammals are within 1,000 yd (941 m) of the structure when explosives are detonated; and (3) verify that no marine mammals were killed or injured by the detonation of explosives. Also, the commenter notes with regard to (1) and (2), that most cetaceans produce species-specific sounds and that acoustic monitoring therefore might be an additional tool for detecting animals in or near the potential hazard zone.

Response: NMFS does not consider it necessary for applicants to state, in their request for a LOA, the mitigation measures that they will employ to avoid an incidental take of a marine mammal, since these measures are required by regulation and will be required in the LOA. It should be recognized that required mitigation measures are the minimum that a LOA holder must meet; additional measures may be employed at the discretion of the holder.

The species of marine mammals inhabiting the waters in the vicinity of oil and gas structures are surface-inhabiting, short-duration diving animals that are easily visible to observers. Therefore, it is not necessary at this time to require sophisticated, state-of-the-art monitoring systems to detect marine mammals within the 1,352 ft (412.1 m) danger zone or the 3,000 ft (914.4 m) safety zone.

Comment: One commenter believed that the rule appears to require an individual LOA for each platform removal operation. The commenter recommended that, because operations to remove oil and gas structures in the Gulf are basically very similar, the LOA and associated notices in the Federal Register should not be required.

Response: The regulations make clear that an LOA is required to be held by each company operating or previously operating the platform and thereby responsible for removing the structure under MMS regulations. The actual company removing the structure would be considered an agent of the holder of the LOA. NMFS expects companies will apply annually for an LOA and in that application will provide a list of structures anticipated to be removed by them or their contractors in that year.

Environmental Concerns

Comment: Hazardous substances may be deposited and accumulate in sediments around production platforms. If disturbed and resuspended in the water column, these materials may enter the marine food web and be biomagnified in dolphins and other top carnivores.

Response: Impacts resulting from resuspension of bottom sediments include increased water turbidity and mobilization of sediments containing hydrocarbon extraction waste (drill mud, cuttings, etc.) in the water column. The magnitude and extent of any turbidity increases would depend upon the hydrographic parameters of the area, nature and duration of the activity, and size and composition of the bottom material (MMS, 1987). Resuspension of bottom sediments, and solid, liquid, and gaseous discharges would be generated by removal and transportation operations.

Increased turbidity would temporarily impact photic processes at the removal site and reduce primary productivity. The potential effects of mobilizing sediments with the drilling and production wastes could also impact the localized marine environment, depending on the quantities of sediment disturbed, the remaining constituents from the drilling and development operations, local, hydrographic effects, and the biota of the immediate area (MMS, 1984 in MMS, 1987). Several sources [4] indicate that the overall impacts to water quality from resuspension of hydrocarbon extraction wastes is expected to be temporary and limited in scope to the immediate, localized structure-removal sites. Also, because of the temporary nature of resuspension, impacts to marine mammals or their habitat are unlikely.

Other Concerns

Comment: One commenter requested that the rule become effective on the date of publication in the Federal Register and not on January 1, 1993 as stated in the environmental assessment.

Response: The regulations will become effective November 13, 1995.

Changes from the Proposed Rule

Based upon the comments received on the proposed rule and previous reviews of the petition, the following modifications have been made:

1. The rule makes clear that the total authorized taking is limited to 1,000 bottlenose and spotted dolphins by harassment and that the taking of other species of marine mammals is not authorized. The API in its application requested an authorization for 100 takes by harassment of bottlenose and spotted dolphins during the 5-year authorization. NMFS scientists reviewing the application consider this number to be low and recommend an authorization for 1,000 dolphins during

[4] National Academy of Sciences (1983), IMCo et. al. (1969), Neff (1981) among others.

this 5-year period (670 structures ÷ 5 years = 134 rigs/year; 1,000 dolphins ÷ 5 years = 200 dolphins/yr; 200 dolphins ÷ 134 rigs = approximately 1.5 harassment takes/rig removed). This authorized level of taking, limited to harassment, is still considered to be small and having a negligible impact on the species or stocks of marine mammals involved.

2. Because of the difficulty in distinguishing between the two species of spotted dolphins found in the Gulf of Mexico, NMFS is authorizing the take of both species.

3. NMFS has modified the regulations to prohibit detonations whenever the pre-detonation aerial monitoring cannot be conducted and to limit detonations to a daylight time period;

4. A second post-detonation aerial or vessel survey will be required to be conducted no earlier than 48 hours and no later than 1 week after the oil and gas structure is removed, unless a systematic diver or remotely-operated vehicle survey of the site can be, and is, successfully conducted within 24 hours of the any detonation event. Aerial and vessel surveys will be required to be systematic and to concentrate down-current from the structure.

5. The NMFS observer may waive post-detonation monitoring described in paragraph 4 above provided no marine mammals were sighted during either the required 48 hour pre-detonation monitoring period or during the pre-detonation aerial survey.

6. NMFS has modified the regulations to limit explosives to a pressure level equivalent to the pressure generated by a 50-lb (22.7 kg) explosive charge detonated outside the rig piling.

7. NMFS has modified the regulations to change the reporting requirement from 15 working days to 30 calendar days for submission of the reports to NMFS and to allow required information to be provided to the NMFS observer.

8. New paragraphs have been added to clarify prohibited methods of taking (§ 228.44), renewal of LOAs (§ 228.47) and modifications to LOAs (§ 228.48).

9. A new address for the Southeast Regional Office, NMFS has been provided.

Summary of Rule

This rule authorizes the incidental taking of bottlenose dolphins and spotted dolphins by U.S. citizens engaged in removing oil and gas drilling and production structures in state and Federal waters in the Gulf of Mexico adjacent to the coasts of Texas, Louisiana, Mississippi, Alabama, and Florida over the next 5 years.

The rule requires that all activities be conducted in a manner that minimizes adverse effects on bottlenose dolphins and spotted dolphins and their habitat. Safeguards, monitoring, and reporting requirements would be consistent with those in place at the time of this proposal for the incidental take of endangered and threatened sea turtles authorized for the same activities under the ESA.

Description of Removal Activities

The technology most commonly used in the dismantling of platforms includes: Bulk explosives, shaped explosive charges, mechanical and abrasive cutters, and underwater arc cutters. The use of bulk explosives has become the industry's standard procedure for severing pilings, well conductors and related supporting structures. When using bulk charges, the inside of the structure's piles are washed out to at least 15 ft (4.6 m) below the sediment floor to allow placement of explosives inside of the structure. Such placement results in a decrease in the impulse and pressure forces released into the water column upon detonation. The sizes of the explosive charges are generally 50 lb (22.7 kg) or less, but can be as much as 200 lb (90.8 kg) when necessary.[5] The use of high velocity shaped charges is reported to have some advantages over bulk explosives and has been used in combination with smaller bulk charges. The cutting action obtained by a shaped charge is accomplished by focusing the explosive energy with a conical metallic liner. A major advantage associated with use of high velocity shaped charges is that a smaller amount of explosive charge is required to sever the structure, which also results in reductions in the impulse and pressure forces released into the water column. Use of mechanical cutters and underwater arc cutters can be successful in some circumstances and because they do not produce the impulse and pressure forces associated with detonation of explosives, do not involve the incidental taking of marine mammals. According to MMS, these methods are, in most instances, more time-consuming, costly and hazardous to divers. Furthermore, if the use of mechanical or arc cutters were to fail before the structure was completely severed, a larger charge may be necessary to remove the structure.

[5] The use of explosive charges greater than 50 lb requires a reinitiation of consultation under the ESA with NMFS prior to removal of the rig.

Description of Habitat and Marine Mammals Affected by Oil and Gas Rig Removals

A description of the Gulf of Mexico continental shelf area and the biology and abundance of the three marine mammal species in the Gulf of Mexico that are anticipated to be taken by this activity can be found in the EA prepared for this rulemaking. This information can also be found in the proposed rule (58 FR 33425, June 17, 1993) and need not be repeated here. Copies of the EA and proposed rule are available upon request (see **ADDRESSES**).

Potential Impact of Removal Activities on Bottlenose and Spotted Dolphins

The potential for injury to marine mammals in the vicinity of underwater explosions is associated with gas-containing internal organs, such as the lungs and intestines. The extent of potential injury decreases as: (1) Distance of the marine mammal from the explosion increases, (2) size of the marine mammal increases, (3) depth of the explosion and the affected marine mammal decreases, and (4) size of the explosive charge decreases. In addition, explosive charges confined in structure pilings below the mudline produce shock waves of lower pressure (at a given distance from the explosion) than free-water explosions.

A computer model, developed to predict the distances from which marine mammals would suffer only slight injury from underwater explosions, estimated that a bottlenose dolphin calf would receive only slight injury about 4,000 ft (1,200 m) from a 1,200-lb (544–kg) charge detonated in open water at a depth of 125 ft (38 m). Most structures scheduled for removal are located in water less than 100 ft (38 m) deep. In most cases, charges are no greater than 50 lb (22.7 kg) and are confined within the structure piles about 15 ft (4.6 m) below the mudline. Therefore, as explained in detail in the application and EA, it may be assumed that marine mammals more than 3,000 ft (910 m) from structures to be removed would avoid injury caused by the explosions.

An increase in strandings of bottlenose dolphins in the northwestern Gulf of Mexico occurred in March and April 1986 following the explosive removal of oil and gas structures in the area. However, there is no evidence linking the strandings to the removal of the structures. Furthermore, observers at removals of more than 525 structures in the Gulf of Mexico reported no indication of injury or death to bottlenose or spotted dolphins, or any

other marine mammal related to these structure removals.

While the best scientific information currently available indicates that odontocete cetaceans cannot hear well in the frequencies emitted by explosive detonations (Richardson et al., 1991), and as additional evidence indicates that they may not be able to hear the pulse generated from open-water underwater detonations of explosive charges because it is very brief (*ca*. 0.05 sec) (Lehto 1992), for purposes of this rulemaking, bottlenose and spotted dolphins will be considered to be taken by harassment, as a result of a noninjurious physiological response to the explosion-generated shockwave. For example, Turl (1993) has suggested that Atlantic bottlenose dolphins may be able to detect low frequency sound by some mechanism other then conventional hearing. In addition, there may be harassment due to tactile stings from the shockwave accompanying detonations. This type of taking has been inferred from studies on humans and seems plausible given studies on dolphin skin sensitivity where researchers (Ridgway, S.H. and D.A. Carter. 1993; 1990) concluded that the most sensitive areas of the dolphin skin (mouth, eyes, snout, melon and blowhole) are about as sensitive as the skin of human lips and fingers.[6] Therefore, even if dolphins are not capable of hearing the acoustic signature of the explosion, physiological or behavioral responses to those detonations may still result.

Conclusion

For the reasons discussed above and in an EA prepared for this rulemaking, NMFS finds that the proposed activity will result in the taking of only small numbers of bottlenose and spotted dolphins by harassment; the total of such taking during a 5-year period will have a negligible impact on these species; and the takings will not have an unmitigable adverse impact on the availability of bottlenose and spotted dolphins for subsistence uses.

National Environmental Policy Act (NEPA)

The Assistant Administrator for Fisheries, NOAA (AA) has determined, based on an EA prepared by NMFS under NEPA, that this action will not have a significant impact on the human environment. As a result of that determination, an environmental impact statement has not been prepared.

Classification

This final rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Small Business Administration when this rule was proposed, that, if adopted, this rule would not have a significant economic impact on a substantial number of small entities. This rule will authorize the incidental taking of marine mammals that otherwise would be prohibited by the MMPA. Accordingly, no regulatory flexibility analysis was required or prepared. Only about 10 small businesses are active in removing oil and gas structures in the Gulf of Mexico. These small businesses work under contract to major petroleum companies, which bear the costs of mitigation measures. Moreover, the mitigation measures required by this rule are identical to those already being followed by these small businesses during removal of oil and gas structures to protect endangered and threatened sea turtles.

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act. These requirements have been approved by the Office of Management and Budget (OMB) under section 3504(b) of the Paperwork Reduction Act issued under OMB Control number 0648–0151. Public reporting burden for this collection of information is estimated to average 27.5 hours per response, including the time to review instructions, search existing data sources, gather and maintain the data needed and complete and review the collection of information.

The AA has determined that this rule is consistent to the maximum extent practicable with the approved Coastal Zone Management Program of the States of Florida, Alabama, Mississippi, and Louisiana. During the proposed rule stage, this determination was submitted for review to the responsible State agencies under section 3.7 of the Coastal Zone Management Act.

List of Subjects in 50 CFR Part 228

Marine mammals, Reporting and recordkeeping requirements.

Dated: October 4, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 228 is amended as follows:

PART 228—REGULATIONS GOVERNING SMALL TAKES OF MARINE MAMMALS INCIDENTAL TO SPECIFIED ACTIVITIES

1. The authority citation for part 228 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq*.

2. A new subpart E, consisting of §§ 228.41 through 228.48 is added to read as follows:

Subpart E—Taking of Bottlenose Dolphins and Spotted Dolphins Incidental to Oil and Gas Structure Removal Activities

Sec.

228.41 Specified activity and specified geographical region.
228.42 Effective dates.
228.43 Permissible methods of taking; mitigation.
228.44 Prohibitions.
228.45 Requirements for monitoring and reporting.
228.46 Letters of Authorization.
228.47 Renewal of Letters of Authorization.
228.48 Modifications to Letters of Authorization.

Subpart E—Taking of Bottlenose Dolphins and Spotted Dolphins Incidental to Oil and Gas Structure Removal Activities

§ 228.41 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the incidental taking of marine mammals by U.S. citizens engaged in removing oil and gas drilling and production structures in state waters and on the Outer Continental Shelf in the Gulf of Mexico adjacent to the coasts of Texas, Louisiana, Alabama, Mississippi, and Florida. The incidental, but not intentional, taking of marine mammals by U.S. citizens holding a Letter of Authorization is permitted during the course of severing pilings, well conductors, and related supporting structures, and other activities related to the removal of the oil well structure.

(b) The incidental take of marine mammals under the activity identified in paragraph (a) of this section is limited annually to a combined total of no more than 200 takings by harassment of bottlenose dolphins (*Tursiops*

[6] Until tests can be conducted to determine the overall sensitivity of the skin of marine mammals, NMFS has made the assumption that both humans and marine mammals have similar tactile sensitivity in the water.

truncatus) and spotted dolphins (*Stenella frontalis* and *S. attenuata*).

§ 228.42 Effective dates.

Regulations in this subpart are effective from November 13, 1995 through November 13, 2000.

§ 228.43 Permissible methods of taking; mitigation.

(a) The use of the following means in conducting the activities identified in § 228.41 is permissible: Bulk explosives, shaped explosive charges, mechanical or abrasive cutters, and underwater arc cutters.

(b) All activities identified in § 228.41 must be conducted in a manner that minimizes, to the greatest extent practicable, adverse effects on bottlenose dolphins, spotted dolphins, and their habitat. When using explosives, the following mitigation measures must be utilized:

(1)(i) If bottlenose or spotted dolphins are observed within 3,000 ft (910 m) of the platform prior to detonating charges, detonation must be delayed until either the marine mammal(s) are more than 3,000 ft (910 m) from the platform or actions (e.g., operating a vessel in the vicinity of the dolphins to stimulate bow riding, then steering the vessel away from the structure to be removed) are successful in removing them at least 3,000 ft (910 m) from the detonation site;

(ii) Whenever the conditions described in paragraph (b)(1)(i) of this section occur, the aerial survey required under § 228.45(b)(1) must be repeated prior to detonation of charges if the timing requirements of § 228.45(b)(1) cannot be met.

(2) Detonation of explosives must occur no earlier than 1 hour after sunrise and no later than 1 hour before sunset;

(3) If weather and/or sea conditions preclude adequate aerial, shipboard or subsurface surveillance, detonations must be delayed until conditions improve sufficiently for surveillance to be undertaken; and

(4) Detonations must be staggered by a minimum of 0.9 seconds for each group of charges.

§ 228.44 Prohibitions.

Notwithstanding takings authorized by § 228.43 or by a Letter of Authorization issued under § 228.6, the following activities are prohibited:

(a) The taking of a marine mammal that is other than unintentional, except that the intentional passive herding of dolphins from the vicinity of the platform may be authorized under section 109(h) of the Act as described in a Letter of Authorization;

(b) The violation of, or failure to comply with, the terms, conditions, and requirements of this part or a Letter of Authorization issued or renewed under § 228.6 or § 228.46;

(c) The incidental taking of any marine mammal of a species either not specified in this subpart or whenever the incidental taking authorization for authorized species has been reached; and

(d) The use of single explosive charges having an impulse and pressure greater than that generated by a 50–lb (22.7 kg) explosive charge detonated outside the rig piling.

§ 228.45 Requirements for monitoring and reporting.

(a) Observer(s) approved by the National Marine Fisheries Service in advance of the detonation must be used to monitor the area around the site prior to, during, and after detonation of charges.

(b)(1) Both before and after each detonation episode, an aerial survey by NMFS-approved observers must be conducted for a period not less than 30 minutes within 1 hour of the detonation episode. To ensure that no marine mammals are within the designated 3,000 ft (1,000 yd, 941 m) safety zone nor are likely to enter the designated safety zone prior to or at the time of detonation, the pre-detonation survey must encompass all waters within one nautical mile of the structure.

(2) A second post-detonation aerial or vessel survey of the detonation site must be conducted no earlier than 48 hours and no later than 1 week after the oil and gas structure is removed, unless a systematic underwater survey, either by divers or remotely-operated vehicles, dedicated to marine mammals and sea turtles, of the site has been successfully conducted within 24 hours of the detonation event. The aerial or vessel survey must be systematic and concentrate down-current from the structure.

(3) The NMFS observer may waive post-detonation monitoring described in paragraph (b)(2) of this section provided no marine mammals were sighted by the observer during either the required 48 hour pre-detonation monitoring period or during the pre-detonation aerial survey.

(c) During all diving operations (working dives as required in the course of the removals), divers must be instructed to scan the subsurface areas surrounding the platform (detonation) sites for bottlenose or spotted dolphins and if marine mammals are sighted to inform either the U.S. government observer or the agent of the holder of the Letter of Authorization immediately upon surfacing.

(d)(1) A report summarizing the results of structure removal activities, mitigation measures, monitoring efforts, and other information as required by a Letter of Authorization, must be submitted to the Director, NMFS, Southeast Region, 9721 Executive Center Drive N, St. Petersburg, FL 33702 within 30 calendar days of completion of the removal of the rig.

(2) NMFS will accept the U.S. Government observer report as the activity report if all requirements for reporting contained in the Letter of Authorization are provided to that observer before the observer's report is complete.

§ 228.46 Letters of Authorization.

(a) To incidentally take bottlenose and spotted dolphins pursuant to these regulations, each company operating or which operated an oil or gas structure in the geographical area described in § 228.41, and which is responsible for abandonment or removal of the platform, must apply for and obtain a Letter of Authorization in accordance with § 228.6.

(b) A copy of the Letter of Authorization must be in the possession of the persons conducting activities that may involve incidental takings of bottlenose and spotted dolphins.

§ 228.47 Renewal of Letters of Authorization.

(a) A Letter of Authorization issued under § 228.6 for the activity identified in § 228.41 will be renewed annually upon:

(1) Timely receipt of the reports required under § 228.45(d), which have been reviewed by the Assistant Administrator and determined to be acceptable;

(2) A determination that the maximum incidental take authorizations in § 228.41(b) will not be exceeded; and

(3) A determination that the mitigation measures required under § 228.43(b) and the Letter of Authorization have been undertaken.

(b) If a species' annual authorization is exceeded, the Assistant Administrator will review the documentation submitted with the annual reports required under § 228.45(d), to determine that the taking is not having more than a negligible impact on the species or stock involved.

(c) Notice of issuance of a renewal of the Letter of Authorization will be published in the Federal Register.

§ 228.48 Modifications to Letters of Authorization.

(a) In addition to complying with the provisions of § 228.6, except as provided in paragraph (b) of this section, no substantive modification, including withdrawal or suspension, to the Letter of Authorization issued pursuant to § 228.6 and subject to the provisions of this subpart shall be made until after notice and an opportunity for public comment. For purposes of this paragraph, renewal of a Letter of Authorization under § 228.47, without modification, is not considered a substantive modification.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 228.41(b), the Letter of Authorization issued pursuant to § 228.6, or renewed pursuant to this section may be substantively modified without prior notice and an opportunity for public comment. A notice will be published in the Federal Register subsequent to the action.

[FR Doc. 95–25196 Filed 10–11–95; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 675

[Docket No. 950206040–5040–01; I.D. 100695A]

Groundfish of the Bering Sea and Aleutian Islands Area; Yellowfin Sole in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for yellowfin sole by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the second seasonal bycatch allowance of Pacific halibut apportioned to the trawl yellowfin sole fishery category in the BSAI.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), October 8, 1995, until 12 midnight, A.l.t., December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The second seasonal bycatch allowance of Pacific halibut for the BSAI trawl yellowfin sole fishery, which is defined at § 675.21(b)(1)(iii)(B)(1), was established as 470 metric tons (mt) by the Final 1995 Harvest Specifications of Groundfish (60 FR 8479, February 14, 1995).

The Director, Alaska Region, NMFS, has determined, in accordance with § 675.21(c)(1)(iii), that the second seasonal bycatch allowance of Pacific halibut apportioned to the trawl yellowfin sole fishery in the BSAI has been caught. Therefore, NMFS is prohibiting directed fishing for yellowfin sole by vessels using trawl gear in the BSAI.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under 50 CFR 675.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 6, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–25275 Filed 10–6–95; 3:36 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 60, No. 197
Thursday, October 12, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–SW–29–AD]

Airworthiness Directives; Robinson Helicopter Company Model R22 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to Robinson Helicopter Company (Robinson) Model R22 helicopters, that currently requires revisions to the Limitations section, the Normal Procedures section, and the Emergency Procedures section of the R22 Rotorcraft Flight Manual, revised February 4, 1993. These revisions limit operations in high winds and turbulence; provide information about main rotor (M/R) stall and mast bumping; and, provide recommendations for avoiding these situations. Additionally, emergency procedures are provided for use should certain conditions be encountered. This action would require similar revisions to the Limitations, Normal Procedures and Emergency Procedures sections required by the existing AD, and would require a revision to the Limitations section to prohibit pilots without a certain level of experience and training from operating in the flight conditions specified by the AD. This proposal is prompted by indications that pilots who possess a certain level of experience and training are more able to recognize and react to the adverse meteorological conditions specified in the AD. The actions specified by the proposed AD are intended to prevent M/R stall or mast bumping, which could result in the M/R blades contacting the fuselage causing failure of the M/R system and subsequent loss of control of the helicopter.

DATES: Comments must be received by October 27, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–SW–29–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The Special Federal Aviation Regulation (SFAR) referenced in the proposed rule may be obtained from the FAA, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas, 76137. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Horn, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Southwest Region, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5125, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 95–SW–29–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Assistant Chief Counsel, ATTENTION: Docket No. 95–SW–29–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

On February 23, 1995, the FAA issued AD 95–04–14, Amendment 39–9166 (60 FR 11613, March 2, 1995), which superseded Priority Letter AD 95–02–03, issued January 12, 1995, to require revisions to the Limitations section, the Normal Procedures section, and the Emergency Procedures section of the R22 Rotorcraft Flight Manual, revised February 4, 1993. These revisions limit operations in high winds and turbulence; provide information about M/R stalls and mast bumping; and provide recommendations for avoiding these situations. Additionally, emergency procedures are provided for use should certain conditions be encountered. That action was prompted by 26 accidents since 1981 that resulted in fatalities and involved the M/R blades contacting the helicopter's fuselage. M/R stall and mast bumping may have caused these M/R blade contacts with the Fuselage. Limited pilot experience in rotorcraft has been identified as common to these accidents. High winds and turbulence was also noted in these accidents. Airspeed and low rotor RPM could also be influencing factors in these accidents of M/R blades contacting the fuselage. Flight in strong or gusty winds or in areas of moderate, severe, or extreme turbulence can degrade the helicopter handling qualities, thereby creating an unsafe condition for those pilots with a level of experience of less than 200 hours of helicopter time, of which 50 hours or less is in the Model R22 helicopter. The requirements of the existing AD are intended to prevent M/R stall or mast bumping, which could result in the M/R blades contacting the fuselage causing failure of the M/R system and subsequent loss of control of the helicopter.

Since the issuance of that AD, the FAA has continued to analyze the

accident data and develop new information. The FAA conducted a Flight Standardization Board (FSB); issued a SFAR; and, in conjunction with the manufacturer, developed an awareness training program. The FSB issued a report that specified FAA minimum training, evaluation, and currency requirements applicable to persons operating the Robinson Model R22 helicopters under Federal Aviation Regulation (FAR) Part 91. The FSB determined a need for training designed to enhance the pilot's awareness of the unique characteristics associated with operating the Model R22 helicopter. SFAR 73, issued February 27, 1995, identifies pilots that have 200 flight hours in helicopters, including at least 50 hours in the Model R22 helicopter, as having the experience necessary to recognize, as well as react to, situations that can cause M/R blade contact with the helicopter's fuselage. The SFAR also establishes criteria for flight instructors and requires that all individuals operating the R22 have awareness training and meet Part 61 flight review requirements. The awareness training described in the SFAR provides information on flight in turbulent conditions and the effects of reduced ''G'' operations. All individuals operating the Model R22 helicopter were required to have had this training prior to April 26, 1995. The accident data analyzed by the FAA indicates that, where turbulent conditions were listed as a causal factor, the pilots thought to be at the controls did not meet the SFAR experience requirement of 200 flight hours in helicopters, with at least 50 hours in the Model R22 helicopter. These data, when combined with the SFAR pilot experience and awareness training requirements, indicate that relief for pilots who meet these requirements is appropriate. Additionally, the references to wind shear in the existing AD have been deleted because the equipment necessary to recognize wind shear is not available and the limitation for turbulence applies to wind shear situations.

Since an unsafe condition has been identified that is likely to exist or develop on other Robinson Model R22 helicopters of the same type design, the proposed AD would supersede AD 95–04–14 to require revisions to the Normal Procedures, Emergency procedures, and limitations section of the R22 Rotorcraft Flight Manual. The revision to the Limitations section states that the limitations of paragraph a. are to be observed when the pilot manipulating the controls have not taken the prescribed awareness training specified in SFAR 73 and has not logged a total of 200 hours of helicopter flight time, at least 50 of which must be in the Model R22 helicopter. The paragraph b. revisions to the Limitations section are to be observed by all pilots.

The FAA Estimates that 800 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately one-half work hour per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $24,000.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contracting the Rules Docket. A copy of it may be obtained by contacting the rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–9166, and by adding a new airworthiness directive (AD), to read as follows:

Robinson Helicopter Company: Docket No. 95–SW–29–AD. Supersedes AD 95–04–14, Amendment 39–9166.

Applicability: Model R22 helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required before further flight, unless accomplished previously.

Note 2: Regardless of the experience level of the pilot manipulating the controls or the amount or quality of the awareness training received by the pilot manipulating the controls, these changes to the flight manual are in no way intended to authorize flight in any condition(s) or under any circumstances(s) that are otherwise contrary to other Federal Aviation Regulations.

To prevent main rotor (M/R) stall or mast bumping, which could result in the M/R blades contacting the fuselage causing failure of the M/R system, and subsequent loss of control of the helicopter, accomplish the following:

(a) Insert the following information into the Model R22 Rotorcraft Flight Manual. Compliance with the Limitations section is mandatory. The Normal Procedures and Emergency Procedures sections are informational.

Limitations Section

The following limitations (1–3) are to be observed unless the pilot manipulating the controls has logged 200 or more flight hours in helicopters, at least 50 of which must be in the RHC Model R22 helicopter, and has completed the awareness training specified in Special Federal Regulation (SFAR) No. 73, issued February 27, 1995.

(1) Flight when surface winds exceed 25 knots, including gusts, is prohibited.

(2) Flight when surface wind gust spreads exceed 15 knots is prohibited.

(3) Continued flight in moderate, severe, or extreme turbulence is prohibited.

Adjust forward airspeed to between 60 knots indicated airspeed (KIAS) and 0.7 V_{ne}, but no lower than 57 KIAS, upon inadvertently encountering moderate, severe, or extreme turbulence.

Note: Moderate turbulence is turbulence that causes: (1) changes in altitude or attitude; (2) variations in indicated airspeed; and (3) aircraft occupants to feel definite strains against seat belts.

Normal Procedures Section

Note

Until the FAA completes its research into the conditions and aircraft characteristics that lead to main rotor blade/fuselage contact accidents, and corrective type design changes and operating limitations are identified, Model R22 pilots are strongly urged to become familiar with the following and comply with these recommended procedures.

Main Rotor Stall: Many factors may contribute to main rotor stall and pilots should be familiar with them. Any flight condition that creates excessive angle of attack on the main rotor blades can produce a stall. Low main rotor RPM, aggressive maneuvering high collective angle (often the result of high-density altitude, over-pitching [exceeding power available] during climb, or high forward airspeed) and slow response to the low main rotor RPM warning horn and light may result in main rotor stall. The effect of these conditions can be amplified in turbulence. Main rotor stall can ultimately result in contact between the main rotor and airframe. Additional information on main rotor stall is provided in the Robinson Helicopter Company Safety Notices SN–10, SN–15, SN–20, SN–24, SN–27, and SN–29.

Mast Bumping: Mast bumping may occur with a teetering rotor system when excessive main rotor flapping results from low ''G'' (load factor below 1.0) or abrupt control input. A low ''G'' flight condition can result from an abrupt cyclic pushover in forward flight. High forward airspeed, turbulence, and excessive sideslip can accentuate the adverse effects of these control movements. The excessive flapping results in the main rotor hub assembly striking the main rotor mast with subsequent main rotor system separation from the helicopter.

To avoid these conditions, pilots are strongly urged to follow these recommendations:

(1) Maintain cruise airspeeds between 60 KIAS and 0.9 $V_{ne,}$ but no lower than 57 KIAS.

(2) Use maximum ''power-on'' RPM at all times during powered flight.

(3) Avoid sideslip during flight. Maintain in-trim flight at all times.

(4) Avoid large, rapid forward cyclic inputs in forward flight, and abrupt control inputs in turbulence.

Emergency Procedures Section

(1) Right Roll in Low ''G'' Condition

Gradually apply aft cyclic to restore positive ''G'' forces and main rotor thrust. Do not apply lateral cyclic until positive ''G'' forces have been established.

(2) Uncommanded Pitch, Roll, or Yaw Resulting From Flight in Turbulence

Gradually apply controls to maintain rotor RPM, positive ''G'' forces, and to eliminate sideslip. Minimize cyclic control inputs in turbulence; do not overcontrol.

(3) Inadvertent Encounter With Moderate, Severe, or Extreme Turbulence

If the area of turbulence is isolated, depart the area; otherwise, land the helicopter as soon as practical.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used when approved by the Manager, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(c) Special flight permits, pursuant to sections 21.197 and 21. 199 of the Federal Aviation Regulations (14 CFR 21.197 and 21. 199), will not be issued.

Issued in Fort Worth, Texas, on September 29, 1995.

Daniel P. Salvano,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 95–25225 Filed 10–11–95; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 95–SW–30–AD]

Airworthiness Directives; Robinson Helicopter Company Model R44 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to Robinson Helicopter Company (Robinson) Model R44 helicopters, that currently requires revisions to the Limitations section, the Normal Procedures section, and the Emergency Procedures section of the R44 Rotorcraft Flight Manual, revised September 6, 1994. These revisions limit operations in high winds and turbulence; provide information about main rotor (M/R) stall and mast bumping; and, provide recommendations for avoiding these situations. Additionally, emergency procedures are provided for use should certain conditions be encountered. This action would require similar revisions to the Limitations, Normal Procedures and Emergency Procedures sections required by the existing AD, and would require a revision to the Limitations section to prohibit pilots without a certain level of experience and training from operating in the flight conditions specified by this AD. This proposal is prompted by indications that pilots who possess a certain level of experience and training are more able to recognize and react to the adverse meteorological conditions specified in the AD. The actions specified by the proposed AD are intended to prevent M/R stall or mast bumping, which could result in the M/R blades contacting the fuselage causing failure of the M/R system and subsequent loss of control of the helicopter.

DATES: Comments must be received by October 27, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–SW–30–AD, 2601 Meacham Blvd, Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The Special Federal Aviation Regulation (SFAR) referenced in the proposed rule may be obtained from the FAA, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Forth Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Horn, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Southwest Region, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5125, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact

concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 95–SW–30–Ad.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any Person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Assistant Chief Counsel, ATTENTION: Docket No. 95–SW–30–AD, 2601 Meacham Blvd, Room 663, Fort Worth, Texas 76137.

Discussion

On February 23, 1995, the FAA issued AD 95–04–13, Amendment 39–9165 (60 FR 11611, March 2, 1995), which superseded Priority Letter AD 95–02–04, issued January 12, 1995, to require revisions to the Limitations section, the Normal Procedures section, and the Emergency Procedures section of the R44 Rotorcraft Flight Manual, revised September 6, 1994. These revisions limit operations in high winds and turbulence; provide information about M/R stalls and mast bumping; and provide recommendations for avoiding these situations. Additionally, emergency procedures are provided for use should certain conditions be encountered. That action was prompted by two Model R44 accidents since April 1994 involving M/R blades contacting the helicopter's fuselage. M/R stall and mast bumping may have caused these M/R blade contacts with the fuselage. Both of these accidents resulted in fatalities. Limited pilot experience in rotorcraft has been identified as common to these accidents. High winds and turbulence were also noted in both of the accidents. Airspeed and low rotor RPM could also be influencing factors in these incidents of M/R blades contacting the fuselage. Flight in strong or gusty winds or areas of moderate, severe, or extreme turbulence can degrade the helicopter handling qualities, thereby creating an unsafe condition for those pilots with a level of experience of less than 200 hours of helicopter time, of which 50 hours or less is in the Model R44 helicopter. The requirements of the existing AD are intended to prevent M/R stall or mast bumping, which could result in the M/R blades contacting the fuselage causing failure of the M/R system and subsequent loss of control of the helicopter.

Since the issuance of that AD, the FAA has continued to analyze the accident data and develop new information. The FAA conducted a Flight Standardization Board (FSB); issued a SFAR; and, in conjunction with the manufacturer, developed an awareness training program. The FSB issued a report that specified FAA minimum training, evaluation, and currency requirements applicable to persons operating the Robinson Model R44 helicopters under Federal Aviation Regulation (FAR) Part 91. The FSB determined a need for training designed to enhance the pilot's awareness of the unique characteristics associated with operating the Model R44 helicopter. SFAR No. 73, issued February 27, 1995, identifies pilots that have 200 flight hours in helicopters, including at least 50 hours in the Model R44 helicopter, as having the experience necessary to recognize, as well as react to, situations that can cause M/R blade contact with the helicopter's fuselage. The SFAR also establishes criteria for flight instructors and requires that all individuals operating the R44 have awareness training and meet Part 61 flight review requirements. The awareness training described in the SFAR provides information on flight in turbulent conditions and the effects of reduced ''G'' operations. All individuals operating the Model R44 helicopter were required to have had this training prior to April 26, 1995. The accident data analyzed by the FAA indicates that, where turbulent conditions were listed as a causal factor, the pilots thought to be at the controls did not meet the SFAR experience requirement of 200 flight hours in helicopters, with at least 50 hours in the Model R44 helicopter. These data, when combined with the SFAR pilot experience and awareness training requirements, indicate that relief for pilots who meet these requirements is appropriate. Additionally, the references to wind shear in the existing AD have been deleted because the equipment necessary to recognize wind shear is not available and the limitation for turbulence applies to wind shear situations.

Since an unsafe condition has been identified that is likely to exist or develop on other Robinson Model R44 helicopters of the same type design, the proposed AD would supersede AD 95–04–13 to require revisions to the Normal Procedures, Emergency Procedures, and Limitations sections of the R44 Rotorcraft Flight Manual. The revision to the Limitations section states that the limitations of paragraph a. of that section are to be observed when the pilot manipulating the controls has not taken the prescribed awareness training specified in SFAR 73, and has not logged a total of 200 hours of helicopter flight time, at least 50 of which must be in the Model R44 helicopter. The paragraph b. revisions to the Limitations section are to be observed by all pilots.

The FAA estimates that three helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately one-half work hour per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $90.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federal Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the captain **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–9165, and by adding a new airworthiness directive (AD), to read as follows:

Robinson Helicopter Company: Docket No. 95–SW–30–AD. Supersedes AD 95–04–13, Amendment 39–9165.

Applicability: Model R44 helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required before further flight, unless accomplished previously.

Note 2: Regardless of the experience level of the pilot manipulating the controls or the amount or quality of the awareness training received by the pilot manipulating the controls, these changes to the flight manual are in no way intended to authorize flight in any condition(s) or under any circumstance(s) that are otherwise contrary to other Federal Aviation Regulations.

To prevent main rotor (M/R) stall or mast bumping, which could result in the M/R blades contacting the fuselage causing failure of the M/R system, and subsequent loss of control of the helicopter, accomplish the following:

(a) Insert the following information into the Model R44 Rotorcraft Flight Manual. Compliance with the Limitations section is mandatory. The Normal Procedures and Emergency Procedures sections are informational.

Limitations Section

The following limitations (1–3) are to be observed unless the pilot manipulating the controls has logged 200 or more flight hours in helicopters, at least 50 of which must be in the RHC Model R44 helicopter, and has completed the awareness training specified in Special Federal Aviation Regulations (SFAR) No. 73, issued February 27, 1995.

(1) Flight when surface winds exceed 25 knots, including gusts, is prohibited.

(2) Flight when surface wind gust spreads exceed 15 knots is prohibited.

(3) Continued flight in moderate, severe, or extreme turbulence is prohibited.

Adjust forward airspeed to between 60 knots indicated airspeed (KIAS) and 0.7 Vne, but no lower than 60 KIAS, upon inadvertently encountering moderate, severe, or extreme turbulence.

Note: Moderate turbulence is turbulence that causes: (1) Changes in altitude or attitude; (2) variations in indicated airspeed; and (3) aircraft occupants to feel definite strains against seat belts.

Normal Procedures Section

Note

Until the FAA completes its research into the conditions and aircraft characteristics that lead to main rotor blade/fuselage contact accidents, and corrective type design changes and operating limitations are identified, Model R44 pilots are strongly urged to become familiar with the following information and comply with these recommended procedures.

Main Rotor Stall: Many factors may contribute to main rotor stall and pilots should be familiar with them. Any flight condition that creates excessive angle of attack on the main rotor blades can produce a stall. Low main rotor RPM, aggressive maneuvering, high collective angle (often the result of high-density altitude, over-pitching [exceeding power available] during climb, or high forward airspeed) and slow response to the low main rotor RPM warning horn and light may result in main rotor stall. The effect of these conditions can be amplified in turbulence. Main rotor stall can ultimately result in contact between the main rotor and airframe. Additional information on main rotor stall is provided in the Robinson Helicopter Company Safety Notices SN–10, SN–15, SN–20, SN–24, SN–27, and SN–29.

Mast Bumping: Mast bumping may occur with a teetering rotor system when excessive main rotor flapping results from low ''G'' (load factor below 1.0) or abrupt control input. A low ''G'' flight condition can result from an abrupt cyclic pushover in forward flight. High forward airspeed, turbulence, and excessive sideslip can accentuate the adverse effects of these control movements. The excessive flapping results in the main rotor hub assembly striking the main rotor mast with subsequent main rotor system separation from the helicopter.

To avoid these conditions, pilots are strongly urged to follow these recommendations:

(1) Maintain cruise airspeeds greater than 60 KIAS and less than 0.9 V_{ne}.

(2) Use maximum ''power-on'' RPM at all times during powered flight.

(3) Avoid sideslip during flight. Maintain in-trim flight at all times.

(4) Avoid large, rapid forward cyclic inputs in forward flight, and abrupt control inputs in turbulence.

Emergency Procedures Section

(1) Right Roll in Low ''G'' Condition

Gradually apply aft cyclic to restore positive ''G'' forces and main rotor thrust. Do not apply lateral cyclic until positive ''G'' forces have been established.

(2) Uncommanded Pitch, Roll, or Yaw Resulting From Flight in Turbulence

Gradually apply controls to maintain rotor RPM, positive ''G'' forces, and to eliminate sideslip. Minimize cyclic control inputs in turbulence; do not overcontrol.

(3) Inadvertent Encounter With Moderate, Severe, or Extreme Turbulence.

If the area of turbulence is isolated, depart the area; otherwise, land the helicopter as soon as practical.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used when approved by the Manager, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(c) Special flight permits, pursuant to sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), will not be issued.

Issued in Fort Worth, Texas, on September 29, 1995.

Daniel P. Salvano,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 95–25226 Filed 10–11–95; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC–21398, File No. S7–23–95]

RIN 3235–AE98

Custody of Investment Company Assets Outside the United States—Extension of Comment Period

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule amendments and request for comment; extension of comment period.

SUMMARY: The Commission is extending from October 6, 1995 to November 6, 1995 the comment period for Investment Company Release No. 21259, which proposed amendments to rule 17f–5 under the Investment Company Act of 1940.

DATES: Comments must be received on or before November 6, 1995.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Stop 6–9, Washington, DC 20549. All comment letters should refer to File No. S7–23–95. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Robin S. Gross, Staff Attorney, or Elizabeth R. Krentzman, Assistant Chief, at (202) 942–0690, Office of Regulatory Policy, Division of Investment Management, 450 Fifth Street, NW, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: On July 27, 1995, the Commission issued Investment Company Act Release No. 21259 (60 FR 39592 (August 2, 1995)) (''Release No. 21259''), which proposed amendments to rule 17f–5 (17 CFR 270.17f–5) under the Investment Company Act of 1940 (15 U.S.C. 80a). The proposed amendments would permit an investment company's board to delegate its responsibilities under the rule to evaluate foreign custody arrangements. The amendments also would expand the class of foreign banks and securities depositories that could serve as investment company custodians.

Since Release No. 21259 was issued, the Commission has received requests from interested persons for an extension of the comment period. In light of the importance of the safekeeping of investment company assets and the benefit to the Commission of receiving carefully considered comments, the Commission believes a 30-day extension is appropriate.

The comment period for responding to Release No. 21259 is extended to November 6, 1995.

Dated: October 5, 1995.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–25250 Filed 10–11–95; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 723

Board for Correction of Naval Records

AGENCY: Department of the Navy, DOD.

ACTION: Proposed rule.

SUMMARY: The Department of the Navy is proposing to amend the procedures of the Board for Correction of Naval Records. This revision incorporates format changes and clarifies various minor provisions of the part.

DATES: Comments must be received on or before December 11, 1995.

ADDRESSES: Comments should be submitted to: Executive Director, Board for Correction of Naval Records, 2 Navy Annex, Washington, DC 20370–5100.

FOR FURTHER INFORMATION CONTACT: W. Dean Pfeiffer, Executive Director, (703) 614–1402.

SUPPLEMENTARY INFORMATION: The Department of the Navy has determined that this proposed rule is not a major rule because it will not have an annual effect on the economy of $100 million or more. The Assistant Secretary of the Navy (Manpower and Reserve Affairs) certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–611, and does not have a significant economic impact on small entities as defined by the Act. This rule imposes no obligatory information requirements beyond internal Navy use.

List of Subjects in 32 CFR Part 723

Administrative practice and procedure, Claims, Military personnel.

Accordingly, part 723 of chapter VI of title 32 of the Code of Federal Regulations is proposed to be revised to read as follows:

PART 723—BOARD FOR CORRECTION OF NAVAL RECORDS

Sec.

723.1 General provisions.
723.2 Establishment, function and jurisdiction of the Board.
723.3 Application for correction.
723.4 Appearance before the Board; notice; counsel; witnesses; access to records.
723.5 Hearing.
723.6 Action By the Board.
723.7 Action By the Secretary.
723.8 Staff action.
723.9 Reconsideration.
723.10 Settlement of claims.
723.11 Miscellaneous provisions.

Authority: 10 U.S.C. 1034, 1552.

§ 723.1 General provisions.

This part sets up procedures for correction of naval and marine records by the Secretary of the Navy acting through the Board for Correction of Naval Records (BCNR or the Board) to remedy error or injustice. It describes how to apply for correction of naval and marine records and how the BCNR considers applications. It defines the Board's authority to act on applications. It directs collecting and maintaining information subject to the Privacy Act of 1974 authorized by 10 U.S.C. 1034 and 1552.

§ 723.2 Establishment, function and jurisdiction of the Board.

(a) *Establishment and composition.* Under the foregoing statutory authority, the Board for Correction of Naval Records is established by the Secretary of the Navy. The Board consists of civilians of the executive part of the Department of the Navy in such number, not less than three, as may be appointed by the Secretary and who shall serve at the pleasure of the Secretary. Three members present shall constitute a quorum of the Board. The Secretary of the Navy will designate one member as Chair. In the absence or incapacity of the Chair, an Acting Chair chosen by the Executive Director shall act as Chair for all purposes.

(b) *Function.* The Board is not an investigative body. Its function is to consider applications properly before it for the purpose of determining the existence of error or injustice in the naval records of current and former members of the Navy and Marine Corps, to make recommendations to the Secretary or to take corrective action on the Secretary's behalf when authorized.

(c) *Jurisdiction.* The Board shall have jurisdiction to review and determine all matters properly brought before it, consistent with existing law.

§ 723.3 Application for correction.

(a) *General requirements.* (1) The application for correction must be submitted on DD 149 (Application for Correction of Military Record) or exact facsimile thereof, and should be addressed to: Board for Correction of Naval Records, Department of the Navy, 2 Navy Annex, Washington, DC 20370–5100. Forms and other explanatory matter may be obtained from the Board upon request.

(2) Except as provided in paragraph (a)(3) of this section, the application shall be signed by the person requesting corrective action with respect to his/her record and will either be sworn to or will contain a provision to the effect that the statements submitted in the application are made with full knowledge of the penalty provided by law for making a false statement or claim. (18 U.S.C. 287 and 1001)

(3) When the record in question is that of a person who is incapable of making application, or whose whereabouts is unknown, or when such person is deceased, the application may be made by a spouse, parent, heir, or legal representative. Proof of proper interest shall be submitted with the application.

(b) *Time limit for filing application.* Applications for correction of a record must be filed within 3 years after discovery of the alleged error or injustice. Failure to file within the time prescribed may be excused by the Board if it finds it would be in the interest of justice to do so. If the application is filed more than 3 years after discovery of the error or injustice, the application must set forth the reason why the Board should find it in the interest of justice

to excuse the failure to file the application within the time prescribed.

(c) *Acceptance of applications.* An application will be accepted for consideration unless:

(1) The Board lacks jurisdiction.

(2) The Board lacks authority to grant effective relief.

(3) The applicant has failed to comply with the filing requirements of paragraphs (a)(l), (a)(2), or (a)(3) of this section.

(4) The applicant has failed to exhaust all available administrative remedies.

(5) The applicant has failed to file an application within 3 years after discovery of the alleged error or injustice and has not provided a reason or reasons why the Board should find it in the interest of justice to excuse the failure to file the application within the prescribed 3-year period.

(d) *Other proceedings not stayed.* Filing an application with the Board shall not operate as a stay of any other proceedings being taken with respect to the person involved.

(e) *Consideration of application.* (1) Each application accepted for consideration and all pertinent evidence of record will be reviewed by a three member panel sitting in executive session, to determine whether to authorize a hearing, recommend that the records be corrected without a hearing, or deny the application without a hearing. This determination will be made by majority vote.

(2) The Board may deny an application in executive session if it determines that the evidence of record fails to demonstrate the existence of probable material error or injustice. The Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Applicants have the burden of overcoming this presumption but the Board will not deny an application solely because the record was made by or at the direction of the President or the Secretary in connection with proceedings other than proceedings of a board for correction of military or naval records. Denial of an application on the grounds of insufficient evidence to demonstrate the existence of probable material error or injustice is final subject to the provisions for reconsideration contained in § 723.9.

(3) When an original application or a request for further consideration of a previously denied application is denied without a hearing, the Board's determination shall be made in writing and include a brief statement of the grounds for denial.

(4) The brief statement of the grounds for denial shall include the reasons for the determination that relief should not be granted, including the applicant's claims of constitutional, statutory and/or regulatory violations that were rejected, together with all the essential facts upon which the denial is based, including, if applicable, factors required by regulation to be considered for determination of the character of and reason for discharge. Further the Board shall make a determination as to the applicability of the provisions of the Military Whistleblower Protection Act (10 U.S.C. 1034) if it is invoked by the applicant or reasonably raised by the evidence. Attached to the statement shall be any advisory opinion considered by the Board which is not fully set out in the statement. The applicant will also be advised of reconsideration procedures.

(5) The statement of the grounds for denial, together with all attachments, shall be furnished promptly to the applicant and counsel, who shall also be informed that the name and final vote of each Board member will be furnished or made available upon request. Classified or privileged material will not be incorporated or attached to the Board statement; rather, unclassified or nonprivileged summaries of such material will be so used and written explanations for the substitution will be provided to the applicant and counsel.

§ 723.4 Appearance before the board; notice; counsel; witnesses; access to records.

(a) *General.* In each case in which the Board determines a hearing is warranted, the applicant will be entitled to appear before the Board either in person or by counsel of his/her selection or in person with counsel. Additional provisions apply to cases processed under the Military Whistleblower Protection Act (10 U.S.C. 1034).

(b) *Notice.* (1) In each case in which a hearing is authorized, the Board's staff will transmit to the applicant a written notice stating the time and place of hearing. The notice will be mailed to the applicant, at least 30 days prior to the date of hearing, except that an earlier date may be set where the applicant waives his/her right to such notice in writing.

(2) Upon receipt of the notice of hearing, the applicant will notify the Board in writing at least 15 days prior to the date set for hearing as to whether he/she will be present at the hearing and will indicate to the Board the name of counsel, if represented by counsel, and the names of such witnesses as he/she intends to call. Cases in which the applicant notifies the Board that he/she does not desire to be present at the hearing will be considered in accordance with § 723.5 (b)(2).

(c) *Counsel.* As used in this part, the term ''counsel'' will be construed to include members in good standing of the federal bar or the bar of any state, accredited representatives of veterans' organizations recognized by the Secretary of Veterans Affairs under 38 U.S.C. 3402, or such other persons who, in the opinion of the Board, are considered to be competent to present equitably and comprehensively the request of the applicant for correction, unless barred by law. Representation by counsel will be at no cost to the government.

(d) *Witnesses.* The applicant will be permitted to present witnesses in his/her behalf at hearings before the Board. It will be the responsibility of the applicant to notify his/her witnesses and to arrange for their appearance at the time and place set for hearing. Appearance of witnesses will be at no cost to the government.

(e) *Access to records.* (1) It is the responsibility of the applicant to procure such evidence not contained in the official records of the Department of the Navy as he/she desires to present in support of his/her case.

(2) Classified or privileged information may be released to applicants only by proper authorities in accordance with applicable regulations.

(3) Nothing in this part authorizes the furnishing of copies of the applicants official service records by the Board. Requests for copies of these records should be submitted in accordance with applicable regulations. The BCNR can provide a requester with information regarding procedures for requesting copies of these records from the appropriate retention agency.

§ 723.5 Hearing.

(a) *Convening of board.* The Board will convene, recess and adjourn at the call of the Chair or Acting Chair.

(b) *Conduct of hearing.* (1) The hearing shall be conducted by the Chair or Acting Chair, and shall be subject to his/her rulings so as to ensure a full and fair hearing. The Board shall not be limited by legal rules of evidence but shall maintain reasonable bounds of competency, relevancy, and materiality.

(2) If the applicant, after being duly notified, indicates to the Board that he/she does not desire to be present or to be represented by counsel at the hearing, the Board will consider the case on the basis of all the material

before it, including, but not limited to, the application for correction filed by the applicant, any documentary evidence filed in support of such application, any brief submitted by or in behalf of the applicant, and all available pertinent records.

(3) If the applicant, after being duly notified, indicates to the Board that he/she will be present or be represented by counsel at the hearing, and without good cause and timely notice to the Board, the applicant or representative fails to appear at the time and place set for the hearing or fails to provide the notice required by § 723.4(b)(2), the Board may consider the case in accordance with the provisions of paragraph (b)(2) of this section, or make such other disposition of the case as is appropriate under the circumstances.

(4) All testimony before the Board shall be given under oath or affirmation. The proceedings of the Board and the testimony given before it will be recorded verbatim.

(c) *Continuance.* The Board may continue a hearing on its own motion. A request for continuance by or in behalf of the applicant may be granted by the Board if a continuance appears necessary to insure a full and fair hearing.

§ 723.6 Action by the Board.

(a) *Deliberations, findings, conclusions, and recommendations.* (1) Only members of the Board and its staff shall be present during the deliberations of the Board.

(2) Whenever, during the course of its review of an application, it appears to the Board's satisfaction that the facts have not been fully and fairly disclosed by the records or by the testimony and other evidence before it, the Board may require the applicant or military authorities to provide such further information as it may consider essential to a complete and impartial determination of the facts and issues.

(3) Following a hearing, or where the Board determines to recommend that the record be corrected without a hearing, the Board will make written findings, conclusions and recommendations. If denial of relief is recommended following a hearing, such written findings and conclusions will include a statement of the grounds for denial as described in § 723.3(c)(4). The name and final vote of each Board member will be recorded. A majority vote of the members present on any matter before the Board will constitute the action of the Board and shall be so recorded.

(4) Where the Board deems it necessary to submit comments or recommendations to the Secretary as to matters arising from but not directly related to the issues of any case, such comments and recommendations shall be the subject of separate communication. Additionally, in Military Whistleblower Protection Act cases, any recommendation by the Board to the Secretary that disciplinary or administrative action be taken against any Navy official based on the Board's determination that the official took reprisal action against the applicant will not be made part of the Board's record of proceedings or furnished to the applicant but will be transmitted to the Secretary as a separate communication.

(b) *Minority report.* In case of a disagreement between members of the Board a minority report will be submitted, either as to the findings, conclusions or recommendation, including the reasons therefor.

(c) *Record of proceedings.* Following a hearing, or where the Board determines to recommend that the record be corrected without a hearing, a record of proceedings will be prepared. Such record shall indicate whether or not a quorum was present, and the name and vote of each member present. The record shall include the application for relief, a verbatim transcript of any testimony, affidavits, papers and documents considered by the Board, briefs and written arguments, advisory opinions, if any, minority reports, if any, the findings, conclusions and recommendations of the Board, where appropriate, and all other papers, documents, and reports necessary to reflect a true and complete history of the proceedings.

(d) *Withdrawal.* The Board may permit an applicant to withdraw his/her application without prejudice at any time before its record of proceedings is forwarded to the Secretary.

(e) *Delegation of authority to correct certain naval records.* (1) With respect to all petitions for relief properly before it, the Board is authorized to take final corrective action on behalf of the Secretary, unless:

(i) Comments by proper naval authority are inconsistent with the Board's recommendation;

(ii) The Board's recommendation is not unanimous; or

(iii) It is in the category of petitions reserved for decision by the Secretary of the Navy.

(2) The following categories of petitions for relief are reserved for decision by the Secretary of the Navy:

(i) Petitions involving records previously reviewed or acted upon by the Secretary wherein the operative facts remained substantially the same;

(ii) Petitions by former commissioned officers or midshipmen to change the character of, and/or the reason for, their discharge; or,

(iii) Such other petitions as, in the determination of Office of the Secretary or the Executive Director, warrant Secretarial review.

(3) The Executive Director after ensuring compliance with the above conditions, will announce final decisions on applications decided under this section.

§ 723.7 Action by the Secretary.

(a) *General.* The record of proceedings, except in cases finalized by the Board under the authority delegated in § 723.6(e), and those denied by the Board without a hearing, will be forwarded to the Secretary who will direct such action as he/she determines to be appropriate, which may include the return of the record to the Board for further consideration. Those cases returned for further consideration shall be accompanied by a brief statement setting out the reasons for such action along with any specific instructions. If the Secretary's decision is to deny relief, such decision shall be in writing and, unless he/she expressly adopts in whole or in part the findings, conclusions and recommendations of the Board, or a minority report, shall include a brief statement of the grounds for denial. See § 723.3(e)(4).

(b) *Military Whistleblower Protection Act.* The Secretary will ensure that decisions in cases involving the Military Whistleblower Protection Act are issued within 180 days after receipt of the case and will, unless the full relief requested is granted, inform applicants of their right to request review of the decision by the Secretary of Defense. Applicants will also be informed:

(1) Of the name and address of the official to whom the request for review must be submitted.

(2) That the request for review must be submitted within 90 days after his/her receipt of the decision of the Secretary of the Navy.

(3) That the request for review must be in writing and include:

(i) The applicant's name, address and telephone number;

(ii) A copy of the application to the Board and the final decision of the Secretary of the Navy; and

(iii) A statement of the specific reasons the applicant is not satisfied with the decision of the Secretary of the Navy.

(4) That the request must be based on the Board record; request for review based on factual allegations or evidence not previously presented to the Board

will not be considered under this paragraph but may be the basis for reconsideration by the Board under § 723.9.

§ 723.8 Staff action.

(a) *Transmittal of final decisions granting relief.* (1) If the final decision of the Secretary is to grant the applicant's request for relief the record of proceedings shall be returned to the Board for disposition. The Board shall transmit the finalized record of proceedings to proper naval authority for appropriate action. Similarly, final decisions of the Board granting the applicant's request for relief under the authority delegated in § 723.6(e), shall also be forwarded to the proper naval authority for appropriate action.

(2) The Board shall transmit a copy of the record of proceedings to the proper naval authority for filing in the applicant's service record except where the effect of such action would be to nullify the relief granted. In such cases no reference to the Board's decision shall be made in the service record or files of the applicant and all copies of the record of proceedings and any related papers shall be forwarded to the Board and retained in a file maintained for this purpose.

(3) The addressees of such decisions shall report compliance therewith to the Executive Director.

(4) Upon receipt of the record of proceedings after final action by the Secretary, or by the Board acting under the authority contained in § 723.6(a), the Board shall communicate the decision to the applicant. The applicant is entitled, upon request, to receive a copy of the Board's findings, conclusions and recommendations.

(b) *Transmittal of final decisions denying relief.* If the final decision of the Secretary or the Board is to deny relief, the following materials will be made available to the applicant:

(1) A statement of the findings, conclusions, and recommendations made by the Board and the reasons therefor;

(2) Any advisory opinions considered by the Board;

(3) Any minority reports; and

(4) Any material prepared by the Secretary as required in § 723.7. Moreover, applicant shall also be informed that the name and final vote of each Board member will be furnished or made available upon request and that he/she may submit new and material evidence or other matter for further consideration.

§ 723.9 Reconsideration.

After final adjudication, further consideration will be granted only upon presentation by the applicant of new and material evidence or other matter not previously considered by the Board. New evidence is defined as evidence not previously considered by the Board and not reasonably available to the applicant at the time of the previous application. Evidence is material if it is likely to have a substantial effect on the outcome. All requests for further consideration will be initially screened by the Executive Director of the Board to determine whether new and material evidence or other matter (including, but not limited to, any factual allegations or arguments why the relief should be granted) has been submitted by the applicant. If such evidence or other matter has been submitted, the request shall be forwarded to the Board for a decision. If no such evidence or other matter has been submitted, the applicant will be informed that his/her request was not considered by the Board because it did not contain new and material evidence or other matter.

§ 723.10 Settlement of claims.

(a) *Authority.* (1) The Department of the Navy is authorized under 10 U.S.C. 1552 to pay claims for amounts due to applicants as a result of corrections to their naval records.

(2) The Department of the Navy is not authorized to pay any claim heretofore compensated by Congress through enactment of a private law, or to pay any amount as compensation for any benefit to which the claimant might subsequently become entitled under the laws and regulations administered by the Secretary of Veterans Affairs.

(b) *Application for settlement.* (1) Settlement and payment of claims shall be made only upon a claim of the person whose record has been corrected or legal representative, heirs at law, or beneficiaries. Such claim for settlement and payment may be filed as a separate part of the application for correction of the record.

(2) When the person whose record has been corrected is deceased, and where no demand is presented by a duly appointed legal representative of the estate, payments otherwise due shall be made to the surviving spouse, heir or beneficiaries, in the order prescribed by the law applicable to that kind of payment, or if there is no such law covering order of payment, in the order set forth in 10 U.S.C. 2771; or as otherwise prescribed by the law applicable to that kind of payment.

(3) Upon request, the applicant or applicants shall be required to furnish requisite information to determine their status as proper parties to the claim for purposes of payment under applicable provisions of law.

(c) *Settlement.* (1) Settlement of claims shall be upon the basis of the decision and recommendation of the Board, as approved by the Secretary or his designee. Computation of the amounts due shall be made by the appropriate disbursing activity. In no case will the amount found due exceed the amount which would otherwise have been paid or have become due under applicable laws had no error or injustice occurred. Earnings received from civilian employment, self employment or any income protection plan for such employment during any period for which active duty pay and allowances are payable will be deducted from the settlement. To the extent authorized by law and regulation, amounts found due may be reduced by the amount of any existing indebtedness to the Government arising from military service.

(2) Prior to or at the time of payment, the person or persons to whom payments are to be made shall be advised by the disbursing activity of the nature and amount of the various benefits represented by the total settlement and shall be advised further that acceptance of such settlement shall constitute a complete release by the claimants involved of any claim against the United States on account of the correction of the record.

(d) *Report of settlement.* In every case where payment is made, the amount of such payment and the names of the payee or payees shall be reported to the Executive Director.

§ 723.11 Miscellaneous provisions.

(a) *Expenses.* No expenses of any nature whatsoever voluntarily incurred by the applicant, counsel, witnesses, or by any other person in the applicant's behalf, will be paid by the Government.

(b) *Indexing of decisions.* (1) Documents sent to each applicant and counsel in accordance with § 723.3(e)(5) and § 723.8(a)(4), above together with the record of the votes of Board members and 11 other statements of findings, conclusions and recommendations made on final determination of an application by the Board or the Secretary will be indexed and promptly made available for public inspection and copying at the Armed Forces Discharge Review/Correction Boards Reading Room.

(2) All documents made available for public inspection and copying shall be indexed in a usable and concise form so as to enable the public to identify those

cases similar in issue together with the circumstances under and/or reasons for which the Board and/or Secretary have granted or denied relief. The index shall be published quarterly and shall be available for public inspection and distribution by sale at the reading room located at Crystal Mall 4, Room 211, Arlington, Virginia. Inquiries concerning the index or the reading room may be addressed to the Chief, Micromation Branch/Armed Forces Discharge Review/Correction Boards Reading Room, Crystal Mall 4, 1941 Jefferson Davis Highway, Arlington, Virginia 22202.

(3) To the extent necessary to prevent a clearly unwarranted invasion of personal privacy, identifying details of the applicant and other persons will be deleted from the documents made available for public inspection and copying. Names, addresses, social security numbers and military service numbers must be deleted. Deletions of other information which is privileged or classified may be made only if a written statement of the basis for such deletion is made available for public inspection.

Dated: September 28, 1995.

M. A. Waters,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 95–25133 Filed 10–11–95; 8:45 am]

BILLING CODE 3810–FF–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80, 86, 89

[AMS–FRL–5314–4]

Control of Air Pollution From Heavy-Duty Engines

AGENCY: Environmental Protection Agency.

ACTION: Advance notice of proposed rule; reopening of public comment period.

SUMMARY: This action reopens the comment period for the advance notice of proposed rule relating heavy-duty engine emissions published August 31, 1995 (60 FR 45579). EPA is reopening the comment period to October 23, 1995.

DATES: Written comments on the advance notice must be received no later than October 23, 1995.

ADDRESSES: Materials relevant to this Notice are contained in Public Docket A–95–27.

Comments on this notice should be sent to Public Docket A–95–27 located at room M–1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460. The docket may be inspected from 8:00 a.m. until 5:30 p.m., Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials. EPA requests that a copy of comments also be sent to Tad Wysor, U.S. EPA, Engine Programs and Compliance Division, 2565 Plymouth Road, Ann Arbor, MI 48105.

FOR FURTHER INFORMATION CONTACT: Tad Wysor, U.S. EPA, Engine Programs and Compliance Division, 2565 Plymouth Road, Ann Arbor, MI 48105. Telephone (313) 668–4332; FAX (313) 741–7816.

SUPPLEMENTARY INFORMATION: EPA published an Advance Notice of Proposed Rulemaking (ANPRM) August 31, 1995 to announce its plans to propose new emission standards for highway heavy-duty engines. The comment period was originally scheduled to end on October 2, 1995. After receiving requests from interested parties, EPA is reopening the comment period until October 23, 1995.

Dated: October 6, 1995.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 95–25306 Filed 10–11–95; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 61

[CC Docket No. 95–155; FCC 95–419]

Toll Free Service Access Codes

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Notice of Proposed Rulemaking seeks comment on how toll free numbers should be reserved, assigned, and used. Specifically, it proposes to take steps to promote the efficient use of toll free numbers; foster the fair and equitable reservation and distribution of toll free numbers; smooth the introduction of new toll free codes as numbers within operational codes are consumed; guard against warehousing of toll free numbers; and determine how toll free vanity numbers should be treated. The recent experience with 800 toll free numbers leads the Commission to believe that it is necessary to initiate a rulemaking proceeding through which the Commission seeks to assure that, in the future, toll free numbers are allocated on a fair, equitable, and orderly basis. The Commission also seeks to assure that the transition period during which the numbers in one toll free code are approaching full consumption and another code is being introduced is smooth, without disruption of service to existing customers or interruption in the availability of toll free numbers for new customers.

DATES: Comments are due on November 1, 1995, and reply comments are due on November 15, 1995.

ADDRESSES: Federal Communications Commission, 1919 M Street, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Irene Flannery, 202–418–2373. Network Services Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION: This summarizes the Commission's Notice of Proposed Rulemaking in the matter of Toll Free Service Access Codes (CC Docket 95–155, adopted October 4, 1995, and released October 5, 1995). The file is available for inspection and copying during the weekday hours of 9:00 a.m. to 4:30 p.m. in the Commission's Reference Center, room 239, 1919 M Street, NW., Washington, DC, or copies may be purchased from the Commission's duplicating contractor, ITS, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, phone 202–857–3800.

Paperwork Reduction Act

The following collections of information contained in this Notice of Proposed Rulemaking have been submitted to the Office of Management and Budget for review under Section 3507(d) of the Paperwork Reduction Act of 1995. 44 U.S.C. 3507(d)). For copies of the OMB submission, contact Dorothy Conway at 202–418–0217 or via internet to dconway@fcc.gov. Comments are solicited on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. Persons wishing to comment on the collections of information should direct their comments to Timothy Fain, Office of Management and Budget, Room 101236NEOB, Washington, DC 20503, phone 202–395–3561 or via internet at fain__t@al.eop.gov. Comments must be filed with the Office of Management and Budget within 60 days of this publication. A copy of any comments

filed with the Office of Management and Budget should also be sent to the following address at the Commission: Federal Communications Commission, Records Management Branch, room 234, Paperwork Reduction Project, Washington, DC 20553. For further information, contact Judy Boley, 202–418–0214.

Title: Toll Free Service Access Codes.

Action: Proposed collections.

OMB Control Number: None.

Respondents: Business or other for profit, including small business.

Frequency of Response: On occasion.

Estimated Annual Burden:

Collection	Paragraph No.	Hours per response	Total annual responses
Recordkeeping	13	10 minutes	4 million.
Reporting	31	1	1.
Certification	34	30 minutes	138.
Coding	44	30 minutes	4 million.

Total Annual Hours: 2,664,079.

Needs and Uses: The Notice of Proposed Rulemaking solicits public comments to respond to the requests of industry to smooth the transition to an expanded set of toll free service access codes, starting with 888 and eventually deploying 877, 866, and so forth. In light of the rapid unanticipated depletion recently experienced with 800 numbers, the Commission is compelled to initiate this rulemaking proceeding.

Analysis of Proceeding

Background

Toll free service differs from traditional telephone service in that the charges for toll free calls received are paid by the called party (*i.e.*, the 800 subscriber). Toll free numbers are contained in a database known as the SMS/800. To obtain a toll free number, a subscriber must choose an entity responsible for managing that subscriber's SMS/800 record and coordinating with the service providers that will provide the subscriber's toll free service. (That entity is known as a RespOrg.) RespOrgs can gain access to and modify the subscriber's record in the SMS/800 database. There are currently approximately 138 RespOrgs.

Toll free service has proven to be very popular because it provides callers with a free and convenient means of contacting parties holding toll free numbers. Toll free numbers are widely used today for business purposes, personal needs, and for access to such services as voice mail and paging devices. The original toll free service access code was 800. Of the approximately 8 million 800 numbers originally available, less than 800,000 800 numbers are available for subscribers today.

Earlier in 1995, the industry selected 888 as the first relief toll free code and reserved 877, 866, 855, 844, 833, and 822 as the subsequent relief toll free codes. The industry originally estimated that modification in the local exchange networks to enable use of 888 numbers would not be completed until April 1, 1996. The 888 deployment date has now been advanced to March 1, 1996. After a week in June 1995 in which over 113,000 800 numbers were assigned, the industry approached the Common Carrier Bureau for assistance because of fears that the supply of 800 numbers would be depleted well in advance of the deployment of 888 numbers. The Bureau developed a conservation plan designed to slow the depletion of 800 numbers.

Summary

To prevent unnecessarily rapid depletion of the scarce numbering resource, we must ensure that toll free numbers are used efficiently. To that end, the Notice of Proposed Rulemaking first seeks comment on: (1) Making sure that toll free numbers are available to subscribers who need and want them rather than reserved or assigned to consumers or businesses who did not ask for them; (2) requiring a one time deposit into an escrow account for each toll free number held in reserve status by RespOrgs, 800 Service Providers, third party agents and/or toll free service subscribers; (3) revising the process for recycling previously used toll free numbers; and (4) using personal identification numbers (''PINs'') to expand the number of users who can use a single toll free number.

Second, given the problems that arose with 800 numbers, as well as the heightened interest in and demand for toll free numbers, it is particularly important to have policies in place well in advance of the deployment of new toll free codes. The Notice of Proposed Rulemaking seeks comment on proposals regarding: (1) The reservation of new toll free codes; (2) the phased opening of new toll free service; (3) the implementation plan for the next toll free code beyond 888; and (4) the tracking of toll free number usage.

Toll free numbers are currently reserved on a ''first come, first served'' basis. Because this procedure seems to enable large RespOrgs with multiple terminals that can access the database to reserve mass quantities of toll free numbers in rapid order and may, as a result place smaller, less technologically sophisticated RespOrgs at a competitive disadvantage, the Notice of Proposed Rulemaking proposes amending the ''first come, first served'' reservation system. The Notice of Proposed Rulemaking also proposes activating new toll free codes gradually to avoid a ''run on the bank'' of new toll free numbers.

In an effort to prevent an exhaust situation in which all toll free numbers from existing codes have been assigned by the time a new code is opened, the Notice of Proposed Rulemaking proposes that the planning for the introduction of new toll free codes start well in advance of the projected total consumption of the previous toll free codes. The early planning proposals include identifying a trigger that would alert the industry that the current toll free code is nearing depletion and that the next toll free code should be prepared for deployment, and mandating the implementation of a new toll free code on six months notice. To further facilitate planning and implementation, the Notice of Proposed Rulemaking proposes requiring the administrator of the SMS/800 database, currently Database Service Management, Inc., to submit periodic reports to the Commission on the use of toll free numbers.

Third, the Notice of Proposed Rulemaking seeks comment on the alleged warehousing and hoarding of toll free numbers. Warehousing occurs when RespOrgs obtain toll free numbers from the database without having an actual customer to whom those numbers are to be assigned. Hoarding occurs when a toll free subscriber acquires more numbers from a RespOrg than it immediately intends to use. Despite voluntary guidelines limiting the quantity of toll free numbers that RespOrgs may reserve, the rapid

depletion of 800 numbers prompted growing concern that 800 numbers were being warehoused and hoarded. The Notice of Proposed Rulemaking proposes imposing a permanent cap on the quantity of numbers a RespOrg may hold in reserve status at any one time and requiring that RespOrgs certify to the Commission that they have actual subscribers for each number drawn from the SMS/800 database.

Fourth, the Notice of Proposed Rulemaking seeks comment on assignment of vanity numbers. A vanity number is a telephone number for which the letters associated with the number's digits on a telephone handset spell a word of value to the number holder (*e.g.*, ''1–800–FLOWERS'' and ''1–800–THECARD''). For the purposes of this Notice, vanity numbers also include any numbers in which holders have a particular interest, be it economic or otherwise. The Notice of Proposed Rulemaking seeks comment on whether the current holder of a vanity 800 number should have a superior right vis-a-vis all other interested parties to receive the equivalent 888 number, as well as any right such a holder would have to the equivalent number in subsequent toll free codes.

Fifth, the Notice of Proposed Rulemaking seeks comment on issues related to toll free Directory Assistance, administration of the SMS/800, and public awareness of and industry participation in the implementation process. 800 Directory Assistance is currently a monopoly service provided by AT&T. The Notice of Proposed Rulemaking proposes combining 800 Director Assistance and 888 Directory Assistance, and eventually Directory Assistance for subsequent toll free codes, into an interchangeable toll free Directory Assistance service. The Notice of Proposed Rulemaking also seeks comment on whether Database Services Management, Inc. should continue to administer the toll free databases or whether some other entity should assume that responsibility. Further, the Notice of Proposed Rulemaking seeks comment on whether public awareness initiatives, in addition to those industry has already taken, are necessary to ensure that the public is informed about the deployment of new toll free codes.

Sixth, to prevent one or a few RespOrgs from laying claim to large percentages of a new toll free service access code on the day it becomes available, the Notice of Proposed Rulemaking seeks comment on a ''circuit breaker'' model designed to regulate the rate at which toll free numbers can be drawn from the database. The impetus for this proposal is the recent experience when the 800–555 code was opened. On the day it became available, one carrier claimed approximately 90% of the numbers that were available. This froze out many small RespOrgs and was widely regarded as unfair, although permitted by the industry guidelines. The Commission believes that it would be sensible to consider a circuit breaker mechanism to prevent a repeat of this problem. Circuit breakers, in the context of securities trading, are designed to limit program trading in volatile markets by restricting access to computerized trading systems and by allowing the markets to cool off by suspending trading for short periods of time. While a circuit breaker model in the toll free context could not be identical to one in the securities context, the Notice of Proposed Rulemaking proposes a model that has an effect over the toll free market similar to the effect the circuit breaker rules have over the securities market.

Finally, the Notice of Proposed Rulemaking seeks comment on how 888 and subsequent toll free codes should be tariffed. Since the Commission believes that 800 and 888 will be used interchangeably and are functionally the same, the Notice of Proposed Rulemaking tentatively concludes that 888 and subsequent toll free codes should be treated, for tariffing purposes, like existing 800 services. As a result, the Notice of Proposed Rulemaking also tentatively concludes that the existing Part 69 provisions for 800 service would also cover 888 service and local exchange carriers would not need to obtain a waiver.

Initial Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. § 601, *et seq.*, this Notice of Proposed Rulemaking may require RespOrgs and 800 Service Providers to have a written request from a toll free subscriber before assigning a toll free number and may be required to retain such record for two years. The administrator of the SMS/800 database, currently Database Services Management, Inc., will be required to submit periodic reports to the Commission on toll free number utilization. RespOrgs will be required to certify, under penalty of false statement, the accuracy of certain subscriber information.

The Secretary shall send a copy of the Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Public Law 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

Written public comments are requested in the Initial Regulatory Flexibility Analysis. These comments must be filed in accordance with the same filing procedures as other comments in this proceeding, but they must also have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis.

Ordering Clauses

Accordingly, *It Is Ordered*, That pursuant to Sections 1, 201–205, 218 of the Communications Act of 1934, as amended, 47 U.S.C. 161, 154, 201–205, 218, the Notice of Proposed Rulemaking is hereby provided.

It Is Further Ordered That, the Secretary shall send a copy of this Notice of Proposed Rulemaking to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Public Law 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

List of Subjects in 47 CFR Part 61

Communications common carriers, Telecommunications.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

FR Doc. 95–25316 Filed 10–11–95; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 60, No. 197
Thursday, October 12, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

Collection Requirements Submitted for Public Comment and Recommendations: Services Integration Study

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Food and Consumer Service's (FCS) intention to request OMB review of the Services Integration Study.

DATES: Comments on this notice must be received by December 11, 1995.

ADDRESSES: Send comments regarding the accuracy of the burden estimate, ways to minimize the burden, including through the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information to: Michael E. Fishman, Acting Director, Office of Analysis and Evaluation, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Michael E. Fishman, (703) 305–2117.

SUPPLEMENTARY INFORMATION:

Title: The Services Integration Study
OMB Number: Not yet assigned
Expiration Date: N/A
Type of Request: New collection of information
Abstract: This study will assess the integration and coordination of community agencies and providers in providing health-related services to low-income women, as well as describe the factors that promote or inhibit integration and coordination. In addition, the study will examine the extent to which community providers who potentially could serve low-income pregnant women do not do so.

The study includes three surveys: (1) A survey of four experts in 30 communities knowledgeable about their local communities; (2) a survey of local health-related providers to create an inventory of services available for all pregnant women in each of 30 communities, and (3) a survey of those providers which provide services to low-income pregnant women. The third survey will include both organizational directors and line staff. Each of these data collection instruments will be administered to each respondent only once.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 minutes for the expert survey; 21 minutes for the service resource inventory; and, 35 minutes for the provider survey.

Respondents: For the expert survey, the respondents are: The WIC clinic director, the director of the local Maternal and Child Health program, the public health clinic director and the local police department. For the resource inventory, the respondents are public and private organizations providing health-related services to pregnant women. For the provider survey, the respondents are the organizational directors and line staff.

Estimated Number of Respondents: For the expert survey, 120 respondents are estimated. For the resource inventory of providers, 900 respondents are estimated. For the provider survey, 2400 respondents are estimated.

Estimated Number of Responses per Respondent: One.

Estimated Total Annual Burden on Respondents: 1,620 hours. Copies of this information collection can be obtained from Leslie Christovich, Office of Analysis and Evaluation, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

Dated: October 30, 1995.

William E. Ludwig,

Administrator, Food and Consumer Service.

[FR Doc. 95–25232 Filed 10–11–95; 8:45 am]

BILLING CODE 3410–30–U

Food Stamp Program: Form FCS–259, Food Stamp Mail Issuance Report, Information Collection Requirements Submitted for Public Comment and Recommendation

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Food and Consumer Service (FCS), United States Department of Agriculture, is publishing for public comment a summary of a proposed information collection. Responses will be either summarized or included in the request for Office of Management and Budget (OMB) approval and will become a matter of public record.

DATES: Written comments and recommendations for the proposed information collection must be received by December 11, 1995 to be assured of consideration.

ADDRESSES: Send comments and requests for copies of the form and instructions to Issuance and Accountability Section; State Administration Branch; Program Accountability Division; Food and Consumer Service, USDA; 3101 Park Center Drive, Room 905; Alexandria, Virginia, 22302.

FOR FURTHER INFORMATION CONTACT: Joseph H. Pinto, Chief, State Administration Branch, Program Accountability Division; Food and Consumer Service, USDA; 3101 Park Center Drive, Room 905; Alexandria, Virginia, 22302; (703) 305–2383.

SUPPLEMENTARY INFORMATION: *Type of Information Collection Request*: Reinstatement, without change, of a previously approved information collection for which approval has expired; *Title of Information Collection*: Food Stamp Mail Issuance Report; *Form No.*: FCS–259; *Use*: Title 7 CFR 276.2(b) requires a mail issuance loss reporting level plan. The plan is established by those State agencies using a mail issuance system for coupon delivery. The plan reflects the issuance sites or counties that comprise each administrative reporting unit. The State agencies shall report the number and value of all issuances which do not reconcile with the record-for-issuance and/or the master issuance file,

including all unreconciled issuances for each administrative reporting unit. This collection of information on the FCS–259 is used by FCS regional offices to assess mail issuance losses, determine the liabilities and bill the State agencies for their portion of the losses; *Frequency*: The FCS–259 collects separate information for three consecutive calendar months and must be completed and submitted to FCS on a quarterly basis by the 45th day following the end of the quarter; *Affected Public*: State and local government; *Number of Respondents*: 2515; *Total Annual Burden Hours*: 3139.

Dated: September 30, 1995.

William E. Ludwig,

Administrator, Food and Consumer Service.

[FR Doc. 95–25292 Filed 10–11–95; 8:45 am]

BILLING CODE 3410–30–U

Forest Service

Reinstatement of Grazing Permit Administration Forms

AGENCY: Forest Service, USDA.

ACTION: Notice of request for reinstatement; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intent to request reinstatement, without change, of a previously approved National and Regional-level information collection related to grazing permit administration. These forms are necessary to administer grazing use on National Forest System lands, as authorized by the Federal Land Policy and Management Act (FLPMA), as amended, and subsequent regulations at 36 CFR part 222, subparts A and C.

DATES: Comments must be received in writing on or before December 11, 1995.

ADDRESSES: Send written comments regarding the accuracy of the burden estimate, ways to minimize the burden, or any other aspect of this collection of information to: Director, Range Management, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090.

FOR FURTHER INFORMATION CONTACT: Berwyn Brown, Range Management Staff, (202) 205–1457.

SUPPLEMENTARY INFORMATION:

Description of Forms

The following information describes the forms to be reinstated:

Titles—National Forms

FS–2200–1; Refund, Credit, or Transfer Application.

FS–2200–2; Application for Temporary Grazing Permit.

FS–2200–12; Waiver of Term Grazing Permit.

FS–2200–13; Escrow Waiver of Term Grazing Permit Privileges.

FS–2200–15; Application and Permit for Livestock Use.

FS–2200–16; Application for Term Grazing Permit.

FS–2200–17; Application for Private Land Grazing Permit.

Titles—Regional Forms

R1–FS–2230–5; Statement of Corporation or Partnership Interest in Grazing Permit.

R2–2200–6; Ownership Statement by Corporation or Partnership.

R3–FS–2200–1; Annual Validation of Term Grazing Permit.

R8–2200–23; Application for Validation of Term Grazing Permit.

OMB Number: 0596–0003.

Expiration Date of Approval: December 31, 1995.

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has been extended.

Abstract: The data collected is used by Forest Officers in administering the range program. The data is necessary for the issuance of different types of grazing permits and the collection of fees due the Federal Government. The information must be collected on an individual basis and related to each individual applying for and/or holding a grazing permit. Similar data is not available from other sources.

Estimate of Burden: Public reporting burden for this collection of information is estimated to vary from 9 to 18 minutes per response.

Type of Respondents: Individuals applying for and/or holding a grazing permit.

Estimated Number of Respondents: 4950.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1485 hours.

Use of Comments

All comments received in response to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: October 5, 1995.

David G. Unger,

Associate Chief.

[FR Doc. 95–25240 Filed 10–11–95; 8:45 am]

BILLING CODE 3410–11–M

Extension and Revision of Currently Approved Information Collection (Forms FS–6500–24, FS–6500–25)

AGENCY: Forest Service, USDA.

ACTION: Notice of intent; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intent to extend and revise a currently approved information collection used to determine financial capability prior to awarding timber sale cost contracts and issuing special use permits.

DATES: comments must be received in writing on or before December 11, 1995.

ADDRESSES: All comments should be addressed to: Linda Washington, Audit & Evaluation Staff, Forest Service, USDA, PO Box 96090, Washington, DC 20090–6090.

FOR FURTHER INFORMATION CONTACT: Linda Washington, Fiscal & Accounting Services, (703) 235–1596.

SUPPLEMENTARY INFORMATION:

Description of Forms

The following information describes the forms to be reinstated:

Titles

FS–6500–25; Request for Verification and/or Confirmation.

FS–6500–24; Financial Statement.

OMB Number: 0596–0012.

Expiration Date of Approval: December 31, 1995.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The Forest Service needs this collection of financial information to determine whether the respondent: (a) has the financial capability to perform and complete the contract, permit, or authorization within the terms and conditions specified by the instrument; (b) should be granted deferred payment status, or; (c) should be granted the option of a settlement offer or an extension of a payment schedule.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 19.18 hours per response.

Type of Respondents: Small businesses or organizations; individuals applying for special use permits.

Estimated Number of Respondents: 350.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 6,713 hours.

Use of Comments

All comments received in response to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: October 5, 1995.

David G. Unger,

Associate Chief.

[FR Doc. 95–25241 Filed 10–11–95; 8:45 am]

BILLING CODE 3410–11–M

Oregon Coast Provincial Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Oregon Coast Provincial Advisory Committee (PAC) will meet on October 20, 1995, in Corvallis, Oregon, at the Siuslaw National Forest Supervisor's Office, 4077 Research Way. The meeting will begin at 10 a.m. and continue until 3:30 p.m. Agenda items to be covered include: (1) PAC progress report/direction for the next year; (2) Federal lands assessment: summary and lessons learned; (3) 1996 watershed restoration program, and (4) open public forum. All Oregon Coast Province Advisory Committee meetings are open to the public. The ''open forum'' is scheduled near the conclusion of the meeting. Interested citizens are encouraged to attend. The Committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Rick Alexander, Public Affairs Officer, at (503) 750–7075, or write to Forest Supervisor, Siuslaw National Forest, P.O. Box 1148, Corvallis, Oregon 97339.

Dated: October 3, 1995.

James R. Furnish,

Forest Supervisor.

[FR Doc. 95–25214 Filed 10–11–95; 8:45 am]

BILLING CODE 3410–11–M

Natural Resources Conservation Service

East Fork of the Grand River Watershed; Ringgold and Union Counties, Iowa; Harrison and Worth Counties, Missouri

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of availability of record of decision.

SUMMARY: Roger A. Hansen, responsible Federal official for projects administered under the provisions of Public Law 83–566, 16 U.S.C. 1001–1008, in the State of Missouri, is hereby providing notification that a record of decision to proceed with the installation of the East Fork of the Grand River Watershed project is available. Single copies of this record of decision may be obtained from Roger A. Hansen at the address shown below.

FOR FURTHER INFORMATION CONTACT: Roger A. Hansen, State Conservationist, Natural Resources Conservation Service, Parkade Center, Suite 250, 601 Business Loop 70 West, Columbia, MO 65203, (314) 876–0901.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

Dated: September 29, 1995.

Roger A. Hansen,

State Conservationist.

[FR Doc. 95–25203 Filed 10–11–95; 8:45 am]

BILLING CODE 3410–16–M

Marthasville Town Branch Watershed, Warren County, Missouri

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of a Finding Of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Par 1500); and the Natural Resources Conservation Service Regulations (7 CFR Part 650); the Natural Resources Conservation Service Regulations (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Marthasville Town Branch Watershed, Warren County, Missouri.

FOR FURTHER INFORMATION CONTACT: Roger A. Hansen, State Conservationist, Natural Resources Conservation Service, Parkade Center, Suite 250, 601 Business Loop 70 West, Columbia, MO 65203 (314) 876–0901.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant adverse local, regional, or national impacts on the environment. As a result of these findings, Roger A. Hansen, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purpose is flood control. The planned works of improvement include two single-purpose floodwater retarding dams, flood plain acquisition of one home and one business, flood proofing the utilities of one home and the furnace of one business, and elevating four homes and three businesses.

The Notice of a Finding Of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Steve F. Baima at (314) 876–0912.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(This activity is listed in the Catalog of Federal Domestic Assistance under NO. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

Roger A. Hansen,

State Conservationist.

[FR Doc. 95–25204 Filed 10–11–95; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–403–801]

Fresh and Chilled Atlantic Salmon From Norway: Termination In-Part of New Shipper Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Termination In-Part of New Shipper Antidumping Duty Administrative Review.

SUMMARY: On May 23, 1995, the Department of Commerce (the Department) initiated a new shipper administrative review of the antidumping duty order on fresh and chilled Atlantic salmon from Norway. The Department is now terminating this review in-part with respect to Nordic Group A/L (Nordic).

EFFECTIVE DATE: October 12, 1995.

FOR FURTHER INFORMATION CONTACT:

Todd Peterson or Thomas Futtner, Office of Antidumping Compliance, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230, telephone (202) 482–4195/3814.

SUPPLEMENTARY INFORMATION:

Background

On May 23, 1995 (60 FR 27273), the Department published in the Federal Register notice of initiation of administrative review of the antidumping duty order on fresh and chilled Atlantic salmon from Norway covering the period November 1, 1994 through April 30, 1995.

Based on Nordic's questionnaire response, the Department determined that Nordic made no sales to unrelated U.S. purchasers during the period of review. (See Memorandum from Joseph Spetrini to Susan Esserman, September 20, 1995.) The Department is now terminating this review in-part for Nordic. The review of Cocoon Ltd. A/S will continue.

This notice is published pursuant to 19 CFR 353.22(h).

Dated: September 29, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–25297 Filed 10–11–95; 8:45 am]

BILLING CODE 3510–DS–M

[A–201–802]

Gray Portland Cement and Clinker From Mexico; Notice of Court Decision

AGENCY: Import Administration, International Trade Administration Department of Commerce.

ACTION: Notice of court decision and suspension of liquidation.

SUMMARY: On July 12, 1995, in the case of *The Ad Hoc Committee of AZ-NM-TX-FL Producers of Gray Portland Cement* v. *United States*, Slip Op. 95–125, (*Ad Hoc*), the United States Court of International Trade (the Court) affirmed the Department of Commerce's (the Department's) results of redetermination pursuant to remand, and prior remand determinations of the Department, of the final results of the first administrative review of the antidumping duty order on gray portland cement and clinker from Mexico. The period covered by the first review is April 12, 1990 through July 31, 1991. The Court ruled that the challenge by defendant-intervenor CEMEX, S.A. of the Department's treatment of value-added taxes was untimely filed and, therefore, sustained the Department's final results of redetermination pursuant to remand.

EFFECTIVE DATE: October 12, 1995.

FOR FURTHER INFORMATION CONTACT: Robert James or John Kugelman, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC 20230; telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Background

On April 28, 1993, the Department published in the Federal Register the final results of its first administrative review of the antidumping duty order on gray portland cement and clinker from Mexico (58 FR 25803 (April 28, 1993)). In those final results, the Department set forth its determination of the weighted-average margins for the two respondent companies for the period of review, April 12, 1990 through July 31, 1991, and announced its intent to instruct the U.S. Customs Service to assess antidumping duties on all appropriate entries.

Petitioners in these proceedings subsequently filed suit with the Court challenging these final results. Thereafter, the Court published an Order and Opinion dated September 26, 1994 in *Ad Hoc*, Ct. No. 93–05–00273, Slip Op. 94–151, remanding the Department's determination with instructions to: (1) Consider CEMEX's claimed deductions for pre-sale home market transportation costs under the circumstances-of-sale (COS) provision of the Department's regulations; (2) apply a value-added-tax (VAT) adjustment consistent with the methodology established in *Torrington Co.* v. *United States*, 853 F. Supp. 446 (CIT 1994); (3) reclassify certain transactions designated as exporter's sales price (ESP) transactions as purchase price transactions and reconsider the selection of best information available (BIA) for certain other sales; and (4) reconsider the selection of BIA data for missing added material costs. On January 5, 1995, the Department filed its remand results with the Court. On January 25, 1995, CEMEX challenged certain aspects of the Department's remand results, including our treatment of VAT.

On May 15, 1995, the Court ordered a second remand so that the Department could make technical corrections to its final remand results (Slip Op. 95–91). The Department filed its redetermination with the Court on June 13, 1995; the Court, on July 12, 1995, affirmed the Department's remand results, and issued a judgment that CEMEX's January 25, 1995 challenge on the issue of value-added taxes was untimely filed and, therefore, moot.

Suspension of Liquidation

In its decision in *Timken Co.* v. *United States*, Court No. 89–1489 (January 4, 1990), the Federal Circuit held that the Department must publish notice of a decision of the Court or Federal Circuit which is not ''in harmony'' with the Department's determination. Publication of this notice fulfills this obligation. The Federal Circuit also held that in such a case, the Department must suspend liquidation until there is a ''conclusive'' decision in the action. CEMEX has filed an appeal with the Federal Circuit that challenges the Court's May 15, 1995 and July 12, 1995 decisions. Therefore, the Department will continue to suspend liquidation pending a final decision of the Federal Circuit in this case. In the event of a ''conclusive'' decision affirming the Court's July 12, 1995 and May 15, 1995 decisions, the Department will publish in the Federal Register an amended final results of administrative review that reflects the results of the Court's May 15, 1995 and July 12, 1995 decisions.

Dated: October 4, 1995.

Paul L. Joffe,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 95–25303 Filed 10–11–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–351–605]

Frozen Concentrated Orange Juice From Brazil: Termination Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Termination of Antidumping Duty Administrative Review.

SUMMARY: On June 15, the Department of Commerce (the Department) published in the Federal Register (60 FR 31447) the notice of initiation of the administrative review of the antidumping duty order on frozen concentrated orange juice from Brazil. This review has now been terminated as result of withdrawal of the requests for review by each of the two respondents, Branco Peres Citrus, S.A. (Branco Peres) and CTM Citrus S.A. (Citrus), that originally requested the review.

EFFECTIVE DATE: October 12, 1995.

FOR FURTHER INFORMATION CONTACT: Todd Peterson, Office of Antidumping Compliance, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230, telephone (202) 482–4195.

SUPPLEMENTARY INFORMATION:

Background

On May 31, 1995, Branco Peres and Citrus requested an administrative review of the antidumping duty order on frozen concentrated orange juice from Brazil for the period May 1, 1994, through April 30, 1995, pursuant to 19 CFR 353.22(a)(5). On June 15, 1995, the Department published in the Federal Register (60 FR 31447) the notice of initiation of that administrative review.

Branco Peres and Citrus timely withdrew their requests for review on September 13, 1995, pursuant to 19 CFR 353.22(a)(5). There were no other requests for review. As a result, the Department has terminated this review.

This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended (19 U.S.C. 1675) and 19 CFR 353.22(a)(5).

Dated: September 29, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–25296 Filed 10–11–95; 8:45 am]

BILLING CODE 3510–DS–M

Foreign-Trade Zones Board

[Docket 58–95]

Foreign-Trade Zone 35, Philadelphia, PA Proposed Foreign-Trade Subzone BP Exploration & Oil Inc. (Oil Refinery Complex) Delaware County, PA

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Philadelphia Regional Port Authority, grantee of FTZ 35, requesting special-purpose subzone status for the oil refinery complex of BP Exploration & Oil Inc., located in Delaware County, Pennsylvania (Philadelphia area). The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on September 29, 1995.

The refinery complex consists of 2 sites totalling 477 acres in Delaware County, Pennsylvania: *Site 1* (323 acres)—main refinery and petrochemical feedstock complex located on the Delaware River at Post Road, Marcus Hook, some 17 miles southwest of Philadelphia; *Site 2* (154 acres)—Chelsea tank farm, connected by pipeline and located some 5 miles from the refinery.

The refinery (180,000 barrels per day; 500 employees) is used to produce fuels and petrochemical feedstocks. Fuels produced include gasoline, jet fuel, distillates, residual fuels, and naphthas. Petrochemicals include methane, ethane, butane, propane, toluene, benzene, and xylene. Refinery by-products include petroleum coke, asphalt and carbon black. All of the crude oil (90 percent of inputs), and some feedstocks are sourced abroad.

Zone procedures would exempt the refinery from Customs duty payments on the foreign products used in its exports. On domestic sales, the company would be able to choose the finished product duty rate (nonprivileged foreign status—NPF) on certain petrochemical feedstocks and refinery by-products (duty-free). The duty on crude oil ranges from 5.25¢ to 10.5¢/barrel. The application indicates that the savings from zone procedures would help improve the refinery's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is December 11, 1995. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to December 26, 1995).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, 660 American Ave., Suite 201, King of Prussia, PA 19406

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW, Washington, DC 20230

Dated: October 3, 1995.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 95–25304 Filed 10–11–95; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with September anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: October 12, 1995.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 353.22(a) and 355.22(a) (1994), for administrative reviews of various antidumping and countervailing duty orders and findings with September anniversary dates.

Initiation of Reviews

In accordance with sections 19 CFR 353.22(c) and 355.22(c), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. The Department is not initiating an administrative review of any exporters and/or producers who were not named in a review request because such exporters and/or producers were not specified as required under § 353.22(a) (19 CFR 353.22(a)). We intend to issue the final results of these reviews not later than September 30, 1996.

Antidumping duty proceedings	Period to be reviewed
Argentina:	
Silicon Metal, A–357–804	
Electrometalurgica Andina, S.A.I.C., Silarsa, S.A.	09/01/94–08/31/95
Italy:	
Granular Polytetrafluoroethylene (PTFE) Resin[1], A–475–703	
Ausimont SpA	08/01/94–07/31/95
Japan:	
Granular Polytetrafluoroethylene (PTFE) Resin[1], A–588–707	
Daikin Industries, Ltd.	08/01/94–07/31/95
Russia:	
Titanium Sponge, A–821–803	
Cometals, Inc.[2]	08/01/94–07/31/95
Taiwan:	
Chrome-Plated Lug Nuts, A–583–810	
Anmax Industrial Co., Ltd.	09/01/94–08/31/95
Buxton International	
Chu Fong Metallic Electric Co.	
Everspring Plastic Corp.	
Gingen Metal Corp.	
Goldwinate Associates, Inc.	
Gourmet Equipment (Taiwan) Corp.	
Hwen Hsin Enterprises Co., Ltd.	
Kwan How Enterprises Co., Ltd.	
Kwan Ta Enterprises Co., Ltd.	
Kuang Hong Industries, Ltd.	
Multigrand Industries, Inc.	
San Chien Electric Industrial	09/01/94–08/31/95
San Shing Hardware Works Co., Ltd.	
Transcend International Co.	
Trade Union International Inc./Top Line Uniauto, Inc.	
Wing Tang Electrical Manufacturing Co.	
Chu Fong Metallic Industrial Corp.	
San Chien Electric Industrial Works	
Chuen Chao Enterprise Company	
The People's Republic of China:	
Chrome-Plated Lug Nuts, A–570–808	
China National Automotive Industry I/E Corporation	09/01/94–08/31/95
China National Machinery & Equipment I/E Corporation/Jiangsu Branch	
Shanghai Automobile I/E Corporation.	
Tianjin Automobile I/E Co.	
Ningbo Knives & Scissors Factory	
China National Automobile Import & Export Corp./Yangzhou Branch	
Jiangsu Rudong Grease Gun Factory	
China National Automobile Industry	
All other exporters of chrome-plated lug nuts from the PRC are conditionally covered by this review.	
United Kingdom:	
Steel Crankshafts, A–412–602	
UES Ltd.—Forgings Division	09/01/94–08/31/95
Countervailing Duty Proceedings: None.	

[1] This case was inadvertently omitted from the previous initiation notice.
[2] This firm was inadvertently omitted from the previous initiation notice.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b) and 355.34(b).

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 353.22(c)(1) and 355.22(c)(1).

Dated: October 6, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–25298 Filed 10–11–95; 8:45 am]

BILLING CODE 3510–DS–M

[C–201–505]

Porcelain-on-Steel Cookingware From Mexico; Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of Countervailing Duty Administrative Review.

SUMMARY: On August 2, 1995, the Department of Commerce (the Department) published in the Federal Register its preliminary results of administrative review of the countervailing duty order on porcelain-on-steel cookingware from Mexico for the period January 1, 1993 through December 31, 1993. We have completed this review and determine the net subsidy to be *de minimis* for all companies. The Department intends to instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of the subject merchandise from Mexico exported on or after January 1, 1993, and on or before December 31, 1993.

EFFECTIVE DATE: October 12, 1995.

FOR FURTHER INFORMATION CONTACT: Norma Curtis or Kelly Parkhill, Office of Countervailing Compliance, Import

Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 1995, the Department published in the Federal Register (60 FR 39360) the preliminary results of its administrative review of the countervailing duty order on porcelain-on-steel cookingware from Mexico. The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

We invited interested parties to comment on the preliminary results. On September 1, 1995, case briefs were submitted by Acero Porcelanizado, S.A. de C.V. (APSA) and Cinsa, S. A. De C.V. (Cinsa), producers of the subject merchandise which exported porcelain-on-steel cookingware to the United States during the review period (respondents), and the Government of Mexico (GOM). The review covers the period January 1, 1993 through December 31, 1993. The review covers two companies, which account for virtually all exports of subject merchandise from Mexico, and ten programs.

Applicable Statute and Regulations

The Department is conducting this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Scope of the Review

Imports covered by this review are shipments of porcelain-on-steel cookingware from Mexico. The products are porcelain-on-steel cookingware (except teakettles), which do not have self-contained electric heating elements. All of the foregoing are constructed of steel, and are enameled or glazed with vitreous glasses. During the review period, such merchandise was classifiable under item number 7323.94.0020 of the Harmonized Tariff Schedule (HTS). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Calculation Methodology for Assessment and Cash Deposit Purposes

We calculated the net subsidy on a country-wide basis by first calculating the subsidy rate for each company subject to the administrative review. We then weight-averaged the rate received by each company using as the weight its share of total Mexican exports to the United States of subject merchandise, including all companies, even those with *de minimis* and zero rates. We then summed the individual companies' weight-averaged rates to determine the subsidy rate from all programs benefitting exports of subject merchandise to the United States.

Since the country-wide rate calculated using this methodology was *de minimis*, as defined by 19 CFR § 355.7 (1994), no further calculations were necessary.

Analysis of Programs

Based upon our analysis of our questionnaire, verification, and written comments from the interested parties we determine the following:

I. Programs Conferring Subsidies

1. Bancomext Financing for Exporters

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has led us to modify our findings in the preliminary results for this program. On this basis, the net subsidy for this program was changed from 0.62 percent *ad valorem* to 0.48 percent *ad valorem*.

2. Fonei Long-Term Financing

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to reconsider our findings in the preliminary results. On this basis, the net subsidy for this program remains 0.01 percent *ad valorem*.

II. Programs Found Not To Be Used

In the preliminary results, we found that the producers and/or exporters of the subject merchandise did not apply for or receive benefits under the following programs during the period of review (POR):

A. Certificates of Fiscal Promotion (CEPROFI)
B. PITEX
C. Other Bancomext Preferential Financing
D. Import Duty Reductions and Exemptions
E. State Tax Incentives
F. Article 15 Loans
G. NAFINSA FOGAIN-type Financing
H. NAFINSA FONEI-type Financing

Our analysis of the comments submitted by the interested parties, summarized below, has not led us to reconsider our findings in the preliminary results.

Analysis of Comments

Comment 1: Respondents contest the Department's determination that Bancomext export financing constitutes a countervailable subsidy. Respondents contend that during the 1993 POR Bancomext financing was provided at interest rates higher than the cost of funds to Bancomext or the GOM. Under item (k) of the Illustrative List of export subsidies, only the provision of financing at interest rates below the government's cost of borrowing is countervailable. Since the GATT Subsidies Code's Illustrative List of export subsidies does not include government financing at rates above the government's cost of funds, the Department should determine that Bancomext was not a countervailable program, and that the loans obtained through the Bancomext facilities were not countervailable during the POR. Respondents contend that the Department confirmed at verification that the audited financial statements showed no funding from government sources, and that Bancomext was a profit making operation throughout the POR.

Department's Position: We disagree. With the broad definition of a subsidy contained in 19 U.S.C. section 1677(5), Congress specifically included government action which results in the provision of capital and loans on ''terms inconsistent with commercial considerations,'' the provision of goods or services at ''preferential rates,'' and the like, to a specific group of beneficiaries. See 19 U.S.C. section 1677(5)(A)(ii). The cost to government standard which defines an export subsidy in Item (k) of the Illustrative List does not limit the United States in applying its own national countervailing duty law to determine the countervailability of subsidy benefits. The Department determines the countervailability of subsidies by measuring the benefit to the recipient rather that the cost to the government. Where, as here, loans are given below commercial market rates, a benefit is conferred. Because these benefits were limited to exporters, we determine that this program is countervailable. See e.g., Final Affirmative Countervailing Duty Determination: Certain Steel Products From Austria (58 FR 37217, 37260; July 9, 1993), Certain Textile Mill Products

From Mexico; Final Results of Countervailing Duty Order Administrative Review (54 FR 36841, 36843–36844; September 5, 1989), Certain Textile Mill Products From Mexico; Final Results of Countervailing Duty Administrative Review (56 FR 12175, 12177; March 22, 1991) and Porcelain-on-Steel Cookingware From Mexico; Final Results of Countervailing Duty Administrative Review (57 FR 562; January 7, 1992).

Comment 2: Both the respondents and the GOM argue that the Department's preliminary results erroneously state that APSA received a ''FOMEX'' export loan in 1992, with a maturity date in 1993. Respondents argue that APSA did not receive a FOMEX loan, nor could have, as the FOMEX program was terminated in 1989. Rather, exporters commonly referred to export loans as ''FOMEX'' loans regardless of whether such loans were actually obtained from FOMEX. Respondents argue that the mere fact that APSA's internal loan ledger erroneously referred to the loan as ''FOMEX'' cannot contradict previous Department determinations, based on verified information received from GOM, that the FOMEX program was terminated in 1989.

Department's Position: We disagree. The Department is not contradicting its previous determination that the FOMEX program was terminated on December 31, 1989. Effective January 1, 1990, the Mexican Treasury Department eliminated the FOMEX loan program and transferred the FOMEX trust to Bancomext. FOMEX was a program previously found countervailable by the Department and operates much like the Bancomext program which the Department has also found countervailable (See Porcelain-on-Steel Cookingware From Mexico; Preliminary Results of Countervailing Duty Administrative Review (56 FR 48163; September 24, 1991) and Porcelain-on-Steel Cookingware From Mexico; Final Results of Countervailing Duty Administrative Review (57 FR 562; January 7, 1992)). As discussed in the preliminary results of this review, during verification at APSA, we noted that one short-term loan was identified by APSA as a FOMEX loan. This loan was not reported in APSA's questionnaire responses. At verification, company officials at APSA were given the opportunity to provide loan documentation for the loan in question demonstrating that the loan was not from a countervailable program; however, they failed to do so. (See Short-Term and Long-Term Loans Section of APSA's Verification Report (Public Version) dated May 9, 1995 on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce). Therefore, the Department treated this loan as a Bancomext loan. However, as stated in the Department's preliminary results, because the interest rate provided for this loan during verification was higher than the commercial benchmark, there was no benefit to APSA from the loan (See Porcelain-on-Steel Cookingware From Mexico; Preliminary Results of Countervailing Duty Administrative Review (60 FR 39360; August 2, 1995)).

Comment 3: Respondents and the GOM argue that the Department incorrectly treated as Bancomext loans all loans CINSA and APSA had reported as being financed by Bancomext. Respondents assert that the loan documents received from commercial banks do not indicate whether the loans were financed through Bancomext. Further, respondents assert that the only definitive source of Bancomext financing is Bancomext itself. The printout (Verification Exhibit BXMT–3) from Bancomext indicates that APSA had only one loan outstanding in the POR, with the first interest payment due after the POR. Therefore, the Department should not have treated other loans as Bancomext loans.

Department's Position: We disagree. As stated in the Department's regulations, ''the Department will visit with producers, exporter, or government agencies in order to verify the accuracy and completeness of submitted factual information. As part of the verification * * * the Department will request access to all files, records, and personnel of the producers, exporters, or the government agencies which the Secretary considers relevant to factual information submitted by those persons.'' 19 CFR 355.36. It is not possible to completely verify the Bancomext loan program at Bancomext. Bancomext records do not include the terms or interest rates established between the companies and the commercial banks. (See Bancomext Section of the GOM's Verification Report (Public Version) dated May 9, 1995 on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce). Therefore, verification must be conducted at both the government and the companies. The loans in question were originally reported by the companies as Bancomext loans in their questionnaire responses. At verification, the Department noted discrepancies between the number and values of the loans reported by Bancomext and those reported by the companies in their questionnaire responses. Cinsa and APSA were given the opportunity to identify through their records which loans were in fact Bancomext loans. (See Bancomext Section of the GOM's Verification Report (Public Version) dated May 9, 1995, Short-Term Loans Section of Cinsa's Verification Report (Public Version) dated May 9, 1995 and Short-Term and Long-Term Loans Section of APSA's Verification Report (Public Version) dated May 9, 1995 on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce). The companies were unable to demonstrate that the loans they had originally reported as Bancomext loans were not, in fact, Bancomext loans. Therefore, the Department has appropriately treated these loans as Bancomext loans.

Comment 4: Respondents and the GOM contend that the zero percent interest rate selected by the Department for the unreported Bancomext loan for Cinsa as best information available (BIA) is inappropriate. Respondents argue that this rate does not reflect information contained in the administrative record. Alternatively, respondents suggest that the Department recalculate the net benefit for the unreported loan using (1) the lowest rate for Bancomext loans offered during the POR, (2) an interest rate based on publicly available data (LIBOR) plus the verified Bancomext spread (the rate charged to commercial banks by Bancomext to cover operating expenses), or (3) the verified Bancomext spread that was applicable to Bancomext loans during the POR. The GOM argues that sufficient information about Bancomext interest rates, applicable to the specific type of loan provided to Cinsa, was available on the record. The GOM suggests the Department use one of the following as the effective interest rate for the unreported loan for Cinsa: (1) LIBOR + the Bancomext spread, (2) LIBOR, or (3) the Bancomext spread, respectively.

Department's Position: We disagree. During verification at the GOM, we discovered one Bancomext loan for Cinsa that had not been reported in the questionnaire responses. Subsequently, Cinsa did not provide the interest rate for this loan upon request at verification. (See Bancomext Section of the GOM's Verification Report (Public Version) dated May 9, 1995 and Short-Term Loan Section of Cinsa's Verification Report (Public Version) dated May 9, 1995, on file in the public file of the Central Records Unit, B–099 of the Department of Commerce). Section 776 (c) of the Act requires the Department to use BIA whenever a party refuses or is unable to produce the

information requested. Furthermore, 19 CFR 355.37 of the Department's regulations gives the Department broad discretion in the use of BIA to calculate benefits for non-cooperating companies who do not submit a complete response. Both the GOM and Cinsa were informed of the need to provide the interest rate for the previously unreported loan. In light of the respondent's failure to respond to our request for complete loan information, we are continuing to use a zero interest rate as BIA.

Comment 5: Respondents contend that the Department incorrectly calculated the commercial dollar interest rate benchmark to which all Bancomext loans are compared. The Department's benchmark was calculated using a weighted average of the commercial interest rates of U.S. dollar loans reported in the Federal Reserve Bulletins ranging from $1,000 to $999,000. Respondents argue that, because a significant portion of the loans obtained during the period of review were in excess of $999,000, the Department should include in its calculation of the commercial interest rate benchmark the interest rates for dollar loans valued between $1 million and $5 million.

Department's Position: We agree. The Department has recalculated its benchmark for dollar-denominated short-term loans to include the interest rates reported in the Federal Reserve Bulletin on comparably sized loans. In addition, the Department inadvertently used the 1993 benchmark for two short-term loans contracted in 1992. It is the Department's practice to select a benchmark interest rate for loans at the time the terms of the loan are established, which in this case was when the loans were received. (See Rice From Thailand; Final Results of Countervailing Duty Administrative Review (59 FR 8906; February 24, 1994)). Therefore, the Department has recalculated the benefit for the Bancomext loans received in 1992, but on which interest was paid in 1993, using the 1992 benchmark rate instead of the 1993 benchmark rate. Because of these changes, we now determine the benefit conferred by the Bancomext program to be zero for APSA and 0.48 percent *ad valorem* for Cinsa.

Final Results of Review

For the period January 1, 1993 through December 31, 1993, we determine the net subsidy to be 0.42 percent *ad valorem* for all companies. In accordance with 19 CFR 255.7, any rate less than 0.5 percent ad valorem is *de minimis.*

The Department intends to instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of the subject merchandise from Mexico exported on or after January 1, 1993, and on or before December 31, 1993.

The Department will also instruct the U.S. Customs Service to collect a cash deposit of estimated countervailing duties of zero percent of the f.o.b. invoice price on all shipments of the subject merchandise from all companies entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 C.F.R. 355.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: September 29, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–25302 Filed 10–11–95; 8:45 am]

BILLING CODE 3510–DS–P

Environmental Technologies Trade Advisory Committee (ETTAC)

AGENCY: International Trade Administration, U. S. Department of Commerce.

ACTION: Notice of open meetings.

SUMMARY: The Environmental Technologies Trade Advisory Committee will hold its fourth plenary meeting. The ETTAC was created on May 31, 1994, to promote a close working-relationship between government and industry and to expand export growth in priority and emerging markets for environmental products and services.

DATES AND PLACE: October 17, 1995, from 9:00 a.m to 5:30 p.m.—Room 6808, Department of Commerce; October 18, 1995, from 8:45 a.m. to 12:30 p.m.—Room 6800, Department of Commerce, 14th Street and Constitution Ave., N.W., Washington D.C. 20230.

The Committee will review its mission statement and will request the participation of several major environmental trade associations on questions of export enhancement for this industry. At the request of the ETTAC, representatives from the U.S. Agency for International Development, U.S. Environmental Protection Agency and the Trade and Development Agency have been invited to discuss their roles and programs that support international environmental technologies trade. The Committee will also develop work plans for each of its Subcommittees: Communications; Interagency Coordination; Finance; and Privatization; and cross-cutting issues: small business; services exports; and products exports.

This program is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Jane Siegel, Department of Commerce, Room 1002, Washington D.C. 20230. Seating is limited and will be on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: The Office of Environmental Technologies Exports, Room 1003, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, phone (202) 482–5225, facsimile (202) 482–5665 TDD 1–800–833–8723.

Dated: October 5, 1995.

Anne Alonzo,

Deputy Assistant Secretary for Environmental Technologies Exports.

[FR Doc. 95–25243 Filed 10–11–95; 8:45 am]

BILLING CODE 3510–DR–P

University of California et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 95–060. *Applicant:* University of California, Santa Cruz, CA 95064. *Instrument:* 5 ea. Seismograph, Model STS-2. *Manufacturer:* G.Streckeisen, Switzerland. *Intended*

Use: See notice at 60 FR 40823, August 10, 1995. *Reasons:* The foreign instrument provides: (1) superior dynamic range, (2) bandwidth from 5.0 to 0.003 Hz and (3) deployment on the surface. *Advice Received From:* The U.S. Geological Survey, September 8, 1995.

Docket Number: 95–066. *Applicant:* University of Maryland, College Park, MD 20742. *Instrument:* Sun Photometer and Filters, Model CE 318-1. *Manufacturer:* Cimel Electronique, France. *Intended Use:* See notice at 60 FR 42847, August 17, 1995. *Reasons:* The foreign instrument provides measurement of both sun and sky radiance with: (1) microprocessor controlled positioning, (2) satellite uplink and (3) spectral filters compatible with NASA instruments. *Advice Received From:* The National Weather Service, September 12, 1995.

The U.S. Geological Survey and The National Weather Service advise that (1) these capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 95–25305 Filed 10–11–95; 8:45 am]

BILLING CODE 3510–DS–F

National Oceanic and Atmospheric Administration

[I.D. 100295D]

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Council) and its advisory entities will hold public meetings.

DATES: The meetings will be held on October 23–27, 1995. The Council meeting will begin on October 24, at 9:00 a.m. in a closed session (not open to the public) to discuss personnel matters and litigation. The open session will begin at 9:30 a.m. The Council meeting will reconvene at 8:00 a.m. each day, October 25 through October 27. The meetings may continue each day into the evening hours if necessary to complete business.

ADDRESSES: The meetings will be held at the Holiday Inn and Conference Center, 8439 NE Columbia Boulevard, Portland, OR 97220; telephone: (503) 256–5000.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Lawrence D. Six, Executive Director, Pacific Fishery Management Council; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION:

Council Agenda

A. Call to Order

B. Highly Migratory Species Management

C. Groundfish Management

1. Final harvest levels and other specifications for 1996.
2. Status of implementation of Federal regulations.
3. Status of fisheries and inseason trip limit adjustments.
4. Trip limit overage allowances and enforcement policies.
5. Trip limits for 1996 (except fixed gear sablefish, agenda item E.9).
6. Whiting season start date in 1996 and beyond.
7. Whiting management for 1997 and beyond.
8. Recommendations of the West Coast Groundfish Stock Assessment Review Panel.
9. Limited entry fixed gear sablefish fishery in 1996.
10. Limited entry fixed gear sablefish fishery in 1997 and beyond.

D. Pacific Halibut Management

1. Summary of 1995 fisheries.
2. Recreational fishery measures for 1996.

E. Habitat Issues

1. Lewis River Enhancement Program.
2. Report of the Steering Group.

F. Salmon Management

1. Sequence of events and status of fisheries.
2. Status report on hook and release mortality estimates for the commercial ocean fishery.
3. Status of methodology reviews.
4. State agency reports on activities to restore natural stocks.
5. Scoping session for plan amendments.
6. Report on size reduction in Pacific salmon.

G. Administrative and Other Matters

1. Budget Committee report.
2. Appointment to the Groundfish Advisory Panel.
3. Status of legislation.
4. NMFS report on impacts of Pinnipeds and Salmonids and coastal ecosystems of the west coast.
5. Work load priorities for 1996.
6. Draft agenda for March 1996.

Other Meetings

The Scientific and Statistical Committee will meet on October 23–24 at 8:00 a.m., to address scientific issues related to Council agenda items.

The Groundfish Management Team will convene on October 23 at 8:00 a.m., to address groundfish management items on the Council agenda.

The Groundfish Advisory Subpanel will convene on October 23 at 1:00 p.m., to address groundfish management items on the Council agenda, and will reconvene at 8:00 a.m. on October 24–25.

The Habitat Steering Group will convene on October 23 at 10:00 a.m., to consider activities affecting the habitat of fish stocks managed by the Council.

The Budget Committee will convene on October 23 at 3:00 p.m., to review the fiscal year 1996 budget situation.

The Enforcement Consultants meet on October 23 at 7:00 p.m., to address enforcement issues related to Council agenda items, and will reconvene at 7:00 p.m. on October 25.

The Legislative Committee will meet on October 23 at 1:00 p.m., to comment on amendments to the Magnuson Fishery Conservation and Management Act.

The Salmon Advisory Panel will meet on October 24 at 10:00 a.m., to consider salmon management issues on the Council's agenda.

The Salmon Technical Team will meet on October 24 at 10:00 a.m., to consider salmon management issues on the Council's agenda.

Detailed agendas for the above advisory meetings will be available from the Council after October 12, 1995.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Lawrence D. Six at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: October 4, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–25197 Filed 10–11–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 100395A]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application to modify permit no. 867 (P540).

SUMMARY: Notice is hereby given that Dr. Frank Cipriano, Kewalo Marine Laboratory 13 Ahui Street, Honolulu, HI 96813, has requested a modification to permit No. 867.

ADDRESSES: The modification request and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Director, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213 (310/980–4015), including the Pacific Area Office of NMFS, 2570 Dole Street, Room 106, Honolulu, HI 96822–2396 (808/955–8831);

Director, Northwest Region (206/526–6150) and Director, National Marine Mammal Laboratory (206/526–4020), NMFS, 7600 Sand Point Way, NE, BIN C15700, Seattle, WA 98115;

Director, Alaska Region, NMFS, Federal Annex, P.O. Box 21668, Juneau, AK 99802 (907/586–7221); and

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, FL 33702 (813/893–3141).

Written data or views, or requests for a public hearing on this request should be submitted to the Director, Office of Protected Resources, NMFS, NOAA, U.S. Department of Commerce, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular modification request would be appropriate.

Concurrent with the publication of this notice in the Federal Register, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject modification to permit No. 867, issued on July 20, 1993 (58 FR 40114) and modified on April 12, 1994 (59 FR 6949), is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) and the regulations governing endangered fish and wildlife (50 CFR 222).

Permit No. 867 authorizes the permit holder to obtain and/or import blood, and/or muscle, liver, gonadal, skin or blubber samples from various cetacean species for phylogenetic analyses. Samples may be obtained from available collections and museums in the United States, or imported from Argentina, Canada, Chile, France, Peru, New Zealand, South Africa, and the United Kingdom.

The permit holder requests authorization to include two other species, Commerson's dolphin (*Cephalorhynchus commersoni*) and killer whale (*Orcinus orca*) in the analysis to help in the assessment of the relationship of various *Lagenorhynchus* species to other dolphins; and increase the number of bottlenose dolphin specimens to be obtained from 6 to 40 specimens. Additionally, he requests that bones and teeth be added to the list of tissues that may be obtained and imported and to import samples from Australia. The *C. commersoni* specimens and *O. orca* specimens are available from Sea World and several other tissue collections.

Dated: October 3,1995.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–25199 Filed 10–11–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 100495A]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit 981, and modification 1 to permit 962.

SUMMARY: Notice is hereby given that NMFS issued Permit 981 to David Owens of Texas A&M University (P531A), and Modification 1 to Permit 962 held by Carlos Diez and Robert van Dam of the University of Central Florida (P509B). Both permits authorize the take of listed sea turtles for the purpose of scientific research, subject to certain conditions set forth therein.

ADDRESSES: The applications, permits, and related documents are available for review by appointment in the following offices:

Office of Protected Resources, F/PR8, NMFS, 1315 East-West Hwy., Room 13307, Silver Spring, MD 20910–3226 (301–713–1401); and

Director, Southeast Region, NMFS, NOAA 9721 Executive Center Drive, St. Petersburg, FL 33702–2432 (813–893–3141).

SUPPLEMENTARY INFORMATION: A notice was published on July 21, 1995 (60 FR 37627) that an application had been filed by David Owens of Texas A&M University (P531A), to take listed sea turtles as authorized by the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–222). Dr. Owens has requested authorization to conduct scientific research on listed sea turtles in the Flower Garden Banks National Marine Sanctuary and Stetson Bank (reef systems), through 1996. The purpose of the research is to study habitat use, migratory patterns, and feeding biology of loggerhead (*Caretta caretta*) and hawksbill (*Eretmochelys imbricata*) sea turtles. Twenty loggerhead and four hawksbill sea turtles will be captured by hand, attached with tags and transmitters, have blood samples taken for genetic identification and sex determination, have ultrasonography (a non-invasive technique) conducted to identify pre-reproductive females, and have stomach lavage conducted to determine diet. In addition, turtles may be observed and filmed to determine feeding habits and forage/prey preferences. On September 27, 1995, NMFS issued a permit authorizing this take.

Carlos Diez of the University of Central Florida (P509B) has requested a modification to Permit 962, authorizing the sampling of scute material from 30 hawksbill turtles in the waters of Mona and Monito Islands, Puerto Rico. On October 4, 1995, NMFS issued a permit authorizing this take.

Issuance of this permit and permit modification, as required by the ESA, was based on a finding that such permit and modification: (1) Were applied for in good faith, (2) will not operate to the disadvantage of the listed species that are the subject of the permit and modification, and (3) are consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: October 5, 1995.

Russell J. Bellmer,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–25198 Filed 10–11–95; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Intent To Prepare Environmental Impact Analyses for Defense Base Realignment and Disposal Actions Resulting From the 1995 Commission's Recommendations

AGENCY: United States Army, Department of Defense.

ACTION: Correction.

SUMMARY: In previous Federal Register notice (Vol 60, No. 184, pages 49263–49264) Friday, September 22, 1995, make the following correction:

On Page 49264 in column one, paragraph c. in the third line the word ''closure'' should be deleted. The sites listed for environmental assessment NEPA documentation for real property available for disposal were erroneously listed as ''closure'' locations. The installations shown are a mixture of closure and realignment installations having real property for disposal.

FOR FURTHER INFORMATION CONTACT: For further information, see the listing of Public Affairs Office contacts for each installation in the original notice.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–25211 Filed 10–11–95; 8:45 am]

BILLING CODE 3710–08–M

Record of Decision (ROD) for Proposed Deep Draft Dredging at Military Ocean Terminal, Sunny Point, NC

AGENCY: Department of the Army, DOD.

ACTION: Notice of availability.

SUMMARY: The Military Ocean Terminal, Sunny Point (MOTSU) located along the west bank of the Cape Fear River in southeastern North Carolina, is 25 miles south of Wilmington and 5 miles north of Southport. The recommended improvements consist of dredging to deepen the south and center basins and their entrance channels from 34 feet mean low water (m.l.w.) to 38 feet m.l.w., plus 2 feet of overdepth, and to widen these entrance channels from 300 feet to 400 feet. Also, a portion of the center basin will be widened from 800 to 1,000 feet wide to 1,500 feet wide. Existing permanent navigation facilities require improvements to provide sufficient depth and width to allow the safe passage and maneuvering of modern deep-draft vessels and to permit loading them to their designed capacity and draft. Dredged material disposal will be at the Wilmington Ocean Dredged Material Disposal Site or at existing confined disposal area 4 at MOTSU.

Three alternatives were considered in detail: the proposed improvements to the MOTSU channels and basins, the proposed improvements to the MOTSU channels and basins with mitigation measures to avoid or minimize adverse environmental effects, and the no action alternative. The proposed MOTSU improvement alternatives are only alternatives that will provide MOTSU with the capability to meet current operational requirements. Present and foreseeable national defense needs make the no action alternative unacceptable.

All applicable laws, executive orders, and regulations were considered during development and evaluation of alternative plans. The recommended plan is in full compliance with these requirements.

ADDRESSES: For a copy of the ROD contact District Engineer, U.S. Army Corps of Engineers, Wilmington District, (Attention: Mr. Philip Payonk), P.O. Box 1890, Wilmington, North Carolina 28402–1890. The telephone number is (919) 251–4589.

Dated: October 5, 1995.

Raymond J. Fatz,

Acting Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health) OASA (I,L&E).

[FR Doc. 95–25227 Filed 10–11–95; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Notice of Intent To Prepare an Environmental Impact Statement for Disposal of U.S. Navy Shipboard Solid Waste

Pursuant to Executive Order 12114 (Environmental Effects Abroad of Major Federal Actions) and Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), the Department of the Navy is announcing its intent to prepare an Environmental Impact Statement (EIS) for disposal of U.S. Navy shipboard solid waste as defined in the International Convention for the Prevention of Pollution from Ships (MARPOL V) (1973).

The work process will entail the compilation, analysis, and extrapolation of relevant data necessary to investigate specific issues and potential environmental impacts associated with disposal of U.S. Navy shipboard solid waste for Navy vessels operating world wide, with special emphasis given to the special areas identified under MARPOL V.

The Department of the Navy initially announced its intent to develop a plan for compliance with Regulation 5 of Annex V to the MARPOL Convention in the Federal Register on July 21, 1994. That Federal Register Notice discussed the background issues surrounding shipboard solid waste disposal, the underlying requirements of international conventions and U.S. domestic laws, the requirement to submit a special area compliance plan to Congress by November 1996, and the requirement to ensure public participation in the development of that plan. The Department of the Navy held a public meeting in September 1994 to solicit public comments on preparation of a special area compliance plan.

The Department of the Navy has determined that it is appropriate at this time to evaluate the environmental impacts of alternative methods for disposal of shipboard solid waste identified in the July 21, 1994 Federal Register Notice. The Department of the Navy intends to use the EIS to support recommendations in a report to be submitted to Congress by November 1996. Even though the scope of the geographic area covered in the EIS will be broader than that covered by the special area compliance plan, the EIS and the plan will discuss the same range of alternatives. Consequently, comments received during the EIS scoping process will be considered as comments on the development of the special area compliance plan as well.

The Navy will evaluate the potential environmental impacts associated with the following solid waste disposal alternatives for Navy vessels:

a. Store and/or retrograde all non-food solid waste; discharge food waste overboard in accordance with current restrictions and requirements.

b. Store and retrograde plastics; discharge food waste overboard in accordance with current restrictions and requirements; pulp or shred and discharge all other solid waste.

c. Store and retrograde plastics; discharge food waste overboard in accordance with current restrictions and requirements; develop high-tech Thermal Destruction solution (e.g., incineration and plasma arc pyrolysis) for all other solid waste.

d. No-action: Discharge solid waste overboard in accordance with the Act to Prevent Pollution from Ships [33 U.S.C. 1902(c)(3)] and the Navy's Environment and Natural Resources Program Manual [Chief of Naval Operations Instruction 5090.1B], i.e., discharge of non-plastic

solid waste at distances greater than 25 NM from the coast.

Analysis of alternatives will include, at a minimum, the following components:

a. Cause/effect relationship of discharge (by alternative type) within the marine and nearshore environs of all designated special areas and world-wide oceans through direct use and/or extrapolation of available data/information or compiled from review of pertinent scientific literature.

b. Impact on health and morale of ship crews.

c. Impact on operational readiness.

Federal, state, and local agencies, and interested individuals are encouraged to participate in the scoping process for the EIS to determine the range of issues and alternatives to be addressed. Two public scoping meetings to receive oral and written comments will be held: (1) At 7:00 p.m. on Tuesday, October 24, 1995, at Old Colony Inn, 625 First Street, Alexandria, VA 22314; and (2) at 7:00 p.m. on Thursday, October 26, 1995, at Clift Hotel, 495 Geary Street, San Francisco, CA 94102. In the interest of available time, each speaker will be asked to limit oral comments to five (5) minutes. Longer comments should be summarized at the public meeting or mailed to the address listed at the end of this announcement.

All written comments should be submitted no later than 30 November 1995 to Mr. Robert Ostermueller, Planner In Charge (PIC), Northern Division, Naval Facilities Engineering Command, 10 Industrial Highway, Mail Stop #82, Lester, PA 19113–2090, telephone (610) 595–0759, fax (610) 595–0778.

Dated: October 6, 1995.

M.D. Schetzsle,

Lt, JAGS, USN, Alternate Federal Register Liaison Officer.

[FR Doc. 95–25271 Filed 10–11–95; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF ENERGY

Notice of Intent To Prepare an Environmental Impact Statement for Disposal of The S1C Prototype Reactor Plant

AGENCY: Department of Energy.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The Department of Energy (DOE) Office of Naval Reactors (Naval Reactors) announces its intent to prepare an Environmental Impact Statement pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, in accordance with the Council on Environmental Quality regulations for implementing NEPA (40 CFR Parts 1500–1508) and the DOE NEPA regulations (10 CFR Part 1021), and to conduct a public scoping meeting. This Environmental Impact Statement will address final disposal of the S1C Prototype reactor plant, located in Windsor, Connecticut. Naval Reactors is preparing this Environmental Impact Statement to focus on the potential for significant environmental impacts and to consider reasonable alternatives.

The preferred alternative is prompt dismantlement of the S1C Prototype reactor plant and disposal of the resulting radioactive waste at a DOE radioactive waste disposal site. Naval Reactors also will evaluate a deferred dismantlement alternative, where the reactor plant would be maintained in protective storage for 30 years to allow most of the radioactivity in the reactor plant to decay before it is dismantled, and the ''no action'' alternative, where the reactor plant would be maintained in protective storage indefinitely.

Naval Reactors also will examine several other alternatives. These alternatives include permanent on-site entombment or burial, and removal and offsite disposal as a single large reactor compartment package.

Naval Reactors invites interested agencies, organizations, and the general public to submit written comments or suggestions concerning the scope of the issues to be addressed, alternatives to be analyzed, and the environmental impacts to be addressed in the Draft Environmental Impact Statement. The public also is invited to attend a scoping meeting in which oral comments and suggestions will be received. Oral and written comments will be considered equally in preparation of the Environmental Impact Statement. Those not desiring to submit comments or suggestions at this time, but who would like to receive a copy of the Draft Environmental Impact Statement for review when it is issued, should write to Mr. C.G. Overton at the address below. When the Draft Environmental Impact Statement is complete, its availability will be announced in the Federal Register and in the local news media. A public hearing will be held, and comments will be solicited on this document.

DATES: Written comments postmarked by November 6, 1995 will be considered in preparation of the Draft Environmental Impact Statement. Comments postmarked after that date will be considered to the extent practicable. Oral and written comments will be received at a public scoping meeting to be held at the following location and time: Ramada Inn—Bradley, October 18, 1995, 7 p.m.–10 p.m., 5 Ella Grasso Turnpike, Windsor Locks, CT.

The meeting will be chaired by a presiding officer but will not be conducted as an evidentiary hearing; speakers will not be cross examined although the presiding officer and Naval Reactors representatives present may ask clarifying questions. To ensure that everyone has an adequate opportunity to speak, five minutes will be allotted for each speaker. Depending on the number of persons requesting to speak, the presiding officer may allow more time for elected officials, or speakers representing multiple parties, or organizations. Persons wishing to speak on behalf of organizations should identify the organization. Persons wishing to speak may either notify Mr. Overton in writing at the address below or register at the meeting. As time permits, individuals who have spoken subject to the five minute rule will be afforded additional speaking time. Written comments also will be accepted at the meeting.

ADDRESSES: Written comments, suggestions on the scope of the Draft Environmental Impact Statement, or requests to speak at the public scoping meeting should be submitted to Mr. C.G. Overton, Chief, Windsor Field Office, Office of Naval Reactors, U.S. Department of Energy, P.O. Box 393, Windsor, CT 06095; telephone (860) 687–5610.

SUPPLEMENTARY INFORMATION:

Background

The S1C Prototype reactor plant is located on the 10.8 acre Windsor Site in Windsor, Connecticut, approximately 5 miles north of Hartford. The S1C Prototype reactor plant first started operation in 1959 and served for more than 30 years as both a facility for testing reactor plant components and equipment and for training Naval personnel. As a result of the end of the Cold War and the downsizing of the Navy, the S1C Prototype reactor plant was shut down in 1993. Since then, the S1C Prototype reactor plant has been defueled, drained, and placed in a stable protective storage condition.

Preliminary Description of Alternatives

1. Preferred Alternative—Prompt Dismantlement

Because the S1C Prototype reactor plant is the only activity at this small site and there is no further need for this plant, the preferred alternative is to

proceed with prompt dismantlement of the S1C Prototype reactor plant. All structures would be removed from the Windsor Site, and the Site would be released for unrestricted use. To the extent practicable, the resulting low-level radioactive metals would be recycled at existing commercial facilities that recycle radioactive metals. The remaining low-level radioactive waste would be disposed of at the DOE Savannah River Site in South Carolina. The Savannah River Site currently receives low-level radioactive waste from Naval Reactors sites in the eastern United States. Both the volume and radioactive content of the S1C Prototype reactor plant waste would be within the range of impacts of low-level radioactive waste that is currently received at Savannah River from Naval Reactors sites. The DOE Hanford Site in Washington State also will be evaluated as an alternate disposal site for the low-level radioactive waste.

2. Deferred Dismantlement

This alternative would involve keeping the defueled S1C Prototype reactor plant in protective storage for 30 years before dismantling it. Deferring dismantlement for 30 years would allow nearly all of the cobalt-60 radioactivity to decay away. Nearly all of the gamma radiation within the reactor plant comes from cobalt-60.

3. No Action

This alternative would involve keeping the defueled S1C Prototype reactor plant in protective storage indefinitely. Since there is some residual radioactivity with very long half lives such as nickel-59 in the defueled reactor plant, this alternative would leave this radioactivity at the Windsor Site indefinitely.

4. Other Alternatives

These alternatives include permanent on-site disposal. Such onsite disposal could involve building an entombment structure over the S1C Prototype reactor plant or developing a below ground disposal area at the Windsor Site. Another alternative would be to remove the S1C Prototype reactor plant as a single large reactor compartment package for offsite disposal.

Preliminary Identification of Environmental Issues

The following issues, subject to consideration of comments received in response to public scoping, have been tentatively identified for analysis in the Environmental Impact Statement. This list is presented to facilitate public comment on the scope of the Environmental Impact Statement. It is not intended to be all inclusive nor is it intended to be a predetermination of impacts.

1. Potential impacts to the public and on-site workers from radiological and non radiological releases caused by activities to be conducted within the context of the proposed action and alternatives.

2. Potential environmental impacts, including air and water quality impacts, caused by the proposed action and alternatives.

3. Potential transportation impacts as a result of the proposed action and alternatives.

4. Potential effect on endangered species, floodplain/wetlands, and archeological/historical sites as a result of the proposed action and alternatives.

5. Potential impacts from postulated accidents as a result of the proposed action and alternatives.

6. Potential socioeconomic impacts to the surrounding communities as a result of implementing the proposed actions and alternatives.

7. Potential cumulative impacts from the proposed action and other past, present, and reasonably foreseeable future actions.

8. Potential irreversible and irretrievable commitment of resources.

Issued at Arlington, VA this 29th day of September 1995.

B. DeMars,

Admiral, U.S. Navy, Director, Naval Nuclear Propulsion Program.

[FR Doc. 95–25219 Filed 10–11–95; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Advisory Board

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is hereby given of the following Advisory Committee meeting:

Name: Environmental Management Advisory Board, Formerly Utilized Sites Remedial Action Program Committee.

Date and Times: Monday, October 30, 1995 from 11:30 a.m. to 8:30 p.m.; Tuesday, October 31, 1995 from 8:30 a.m. to 4:30 p.m.

Place: Meadowlands Hilton, 2 Harmon Plaza, Secaucus, NJ 07094, (201) 348–6900.

FOR FURTHER INFORMATION CONTACT: James T. Melillo, Executive Director, Environmental Management Advisory Board, EM–5, 1000 Independence Avenue, S.W., Washington, DC 20585, (202) 586–4400. The Internet address is: James.Melillo@em.doe.gov

SUPPLEMENTARY INFORMATION: Purpose of the Board. The purpose of the Board is to provide the Assistant Secretary for Environmental Management (EM) with advice and recommendations on issues confronting the Environmental Management program and the Programmatic Environmental Management Impact Statement, from the perspectives of affected groups and State and local Governments. The Board will help to improve the Environmental Management Program by assisting in the process of securing consensus recommendations, and providing the Department's numerous publics with opportunities to express their opinions regarding the Environmental Management Program including the Formerly Utilized Site Remedial Action Program.

Tentative Agenda

Monday, October 30, 1995

11:30 a.m. Chairman Opens Public Meeting
Overview of Activities and Findings from the St. Louis and Tonowanda, NY Committee Meetings
Results from the September 1995 Environmental Management Advisory Board Meeting (EMAB)
Perceptions/Lessons Learned Contributing to and Leading Up to Development of Guiding Principles
12:30 p.m. Lunch
1:30 p.m. Recap/ Discussion of New Jersey Tour
2:00 p.m. EPA Briefing
3:00 p.m. NRC Briefing
4:00 p.m. Potential Risk Impacts of FUSRAP Materials
4:30 p.m. Community Involvement Issues
5:00 p.m. Break for Dinner
7:00 p.m. Public Comment Session
8:30 p.m. Meeting Adjourns

Tuesday, October 31, 1995

8:30 a.m. Chairman Reconvenes Public Meeting
8:35 a.m. Discussion/Review of FUSRAP Principles Report Outline
11:30 a.m. Discussion/Development of Guiding Principles
12:30 p.m. Lunch
1:30 p.m. Continued Discussion/ Development of Guiding Principles
3:30 p.m. Committee Business
4:30 p.m. Meeting Adjourns

A final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact James T. Melillo at the address or telephone number listed above. Individuals wishing to orally address the Committee during the public comment session should call (800) 736–3282 and leave a message. Individuals may also register on October 30, 1995 at the meeting site. Every effort will be made to hear all those wishing

to speak to the Committee, on a first come, first serve basis. Those who call in and reserve time will be given the opportunity to speak first. The Chairman is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts and Minutes: Meeting minutes will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on October 5, 1995.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–25215 Filed 10–11–95; 8:45 am]

BILLING CODE 6450–01–P

Nevada Operations Office: Trespassing on Department of Energy Property

AGENCY: Department of Energy.

ACTION: Designation of Nevada Operations Office North Las Vegas Facility property as Off-Limits Area.

SUMMARY: The Department of Energy hereby defines the legal description of the Nevada Operations Office North Las Vegas Facility as an Off-Limits Area in accordance with 10 CFR Part 860, making it a federal crime under 42 U.S.C. 2278a for unauthorized persons to enter into or upon the Nevada Operations Office North Las Vegas Facility.

FOR FURTHER INFORMATION CONTACT: Sandra Cross, (702) 295–1114.

SUPPLEMENTARY INFORMATION: Pursuant to Section 229 of the Atomic Energy Act of 1954 (42 U.S.C. 2278a), as implemented by 10 CFR Part 860; Section 104 of the Energy Reorganization Act of 1974 (42 U.S.C. 5814); and Section 301 of the Department of Energy Organization Act (42 U.S.C. 7151), the Department of Energy hereby gives notice that the Nevada Operations Office North Las Vegas Facility is designated as an Off-Limits Area and prohibits the unauthorized entry and the unauthorized introduction of weapons or dangerous materials, as provided in 10 CFR 860.3 and 860.4, into or upon the Nevada Operations Office North Las Vegas Facility.

Description of the site being designated is as follows: All that part of the Southeast Quarter (SE ¼) of Section 15, Township 20 South, Range 61 East, M.D.A., Clark County, Nevada, more particularly described as follows: Commencing at the Northeast corner of said Southeast quarter (SE ¼), thence North 88°04′11″ West along the North line of said Southeast Quarter (SE ¼) a distance of 40.05 feet to the point of beginning; being on the West line of North Fifth Street, an 80.00 foot dedicated street; thence continuing North 88°04′11″ West along said North line a distance of 1240.82 feet to the East 1/16th corner, thence continuing along said North line North 88°03′07″ West a distance of 1249.72 feet to a point on the East right-of-way line of Commerce Street, a 60.00 foot wide dedicated roadway, thence along said East line South 00°27′37″ West a distance of 129.63 feet, thence leaving said right-of-way South 89°37′23″ East a distance of 129.63 feet, thence curving to the right along a 350.00 foot radius curve concave Southwesterly, through a central angle of 37°56′56″, an arc length of 231.82 feet, and being along the North line of Parcel 2 of File 04 of Parcel Maps, Page 19, thence continuing South 51°35′30″ East a distance of 582.80 feet; thence curving to the left along a 300.00 foot radius curve concave Northeasterly, through a central angle of 38°40′37″, an arc length of 202.51 feet; thence North 89°43′53″ East a distance of 276.02 feet, thence South 00°16′36″ East, a distance of 53.24 feet, thence South 89°00′56″ East a distance of 740.78 feet to the Westerly right-of-way line of Losee Road, a 100 foot dedicated roadway, thence along said Westerly line North 31°00′00″ East a distance of 978.81 feet to its intersection with the aforementioned Westerly right-of-way of North Fifth Street, thence along said Westerly line North 00°58′15″ West a distance of 714.09 feet to the point of beginning.

Notices Stating the pertinent prohibitions of 10 CFR 860.3 and 860.4 and penalties of 10 CFR 860.5 will be posted at all entrances of said area and at intervals along its perimeter as provided in 10 CFR 860.6.

This description contains 78.33 acres, more or less.

Dated: September 12, 1995.

Robert J. Walsh,

Deputy Director, Office of Security Affairs.

[FR Doc. 95–25220 Filed 10–11–95; 8:45 am]

BILLING CODE 6450–01–M

Bonneville Power Administration

Notice of Availability of Record of Decision for the Bonneville Power Administration/Puget Power Northwest Washington Transmission Project

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of availability of Record of Decision (ROD).

SUMMARY: BPA and Puget Sound Power & Light Company (Puget Power) have decided to upgrade the existing high-voltage transmission system in the Whatcom and Skagit Counties area of the State of Washington, between the towns of Custer and Sedro Woolley, including some areas within the City of Bellingham, starting in 1995. The upgrades of the interconnected 230,000-volt (230-kV) and 115-kV systems are needed to increase the transmission capacity on a nearby U.S.-Canada 500-kV intertie by about 850 megawatts (MW). BPA and Puget Power would share equally in the 850 MW of increased transfer capacity. Construction is scheduled to begin late in 1995 and continue through the fall of 1997 when the new facilities would be energized.

ADDRESSES: Copies of the ROD and Environmental Impact Statement may be obtained by calling BPA's toll-free document request line: 1–800–622–4520.

FOR FURTHER INFORMATION, CONTACT: Ken Barnhart—ECN, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208–3621, phone number (503) 230–3667, fax number (503) 230–5211.

Public Availability: This ROD will be distributed to all interested and affected persons and agencies.

Issued in Portland, Oregon, on September 21, 1995.

Randall W. Hardy,

Administrator and Chief Executive Officer.

[FR Doc. 95–25221 Filed 10–11–95; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Efficiency and Renewable Energy

Notice of Intent To Solicit National Industrial Competitiveness Through Energy, Environment and Economics (NICE^3) Grants

AGENCY: The Department of Energy (DOE).

ACTION: Notice of Intent to Solicit.

SUMMARY: The Office of Industrial Technologies of the Department of Energy is funding a State Grant Program entitled National Industrial Competitiveness through Energy, Environment and Economics (NICE^3). The goals of the NICE^3 Program are to improve energy efficiency, promote cleaner production, and to improve competitiveness in industry.

DATES: The solicitation will be available November 1, 1995. Applications must be received by January 16, 1996.

FOR FURTHER INFORMATION CONTACT: Eric Hass and/or Doug Hooker at the U.S. Department of Energy Golden Field Office (NREL), 1617 Cole Boulevard, Golden, Colorado 80401, (303) 275–4728 for referral to appropriate DOE Regional Support Office or State Agency.

SUPPLEMENTARY INFORMATION: In 1995 the Department of Energy contributed $6.2 for this program. Fourteen projects were selected for funding.

Availability of Fiscal Year 1996 Funds

With this publication, DOE is announcing the availability of up to Six million dollars in grant/cooperative agreement funds for fiscal year 1996. The awards will be made through a competitive process. In response to the solicitation, a State agency may include up to 10 percent, not to exceed $25,000 per project, for State agency program support. Size of grants including State agency program support may range up to $425,000. Projects may cover a period of up to 3 years.

Restricted Eligibility

Eligible applicants for purposes of funding under the program include any authorized agency of the 50 States, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, and any territory or possession of the United States. For convenience, the term State in this notice refers to all eligible State agency applicants. Local governments, State and private universities, private non-profits, private businesses, and individuals, who are not eligible as direct applicants, must work with the appropriate State agencies in developing projects and forming participation arrangements. DOE strongly encourages and requires these types of cooperative arrangements in support of program goals.

The Catalog of Federal Domestic Assistance number assigned to this program is 81.105. Up to $6 million in Federal funds will be made available by DOE for this effort. Cost sharing is required by all participants. The Federal Government will provide up to 45 percent of the funds for the Project. The remaining funds must be provided by the eligible applicants and/or cooperating project participants. Cost sharing, by industry/State partners, beyond the 55 percent required match is desirable. In addition to direct financial contributions, cost sharing can include beneficial services or items, such as manpower equipment, consultants, and computer time that are allowable in accordance with applicable cost principles. Industrial partners are required for a proposal to be considered responsive to this announcement and eligible for grant consideration. A State agency application signed by an authorized State official is required for a proposal to be responsive.

Evaluation Criteria

The first tier, administrative review will occur at the appropriate DOE Regional Support Office. Applications will receive technical and final evaluation review by a panel comprised of members representing DOE's Office of Energy Efficiency and Renewable Energy. More detailed information is available from the U.S. Department of Energy Golden Field Office at 303/275–4728.

DOE reserves the right to fund, in whole or in part, any, all, or none of the proposals submitted in response to this notice.

Issued in Golden, Colorado, on September 21, 1995.

John W. Meeker,

Chief, Procurement, GO.

[FR Doc. 95–25223 Filed 10–11–95; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Research

Fusion Energy Advisory Committee Postponement Notice

AGENCY: Department of Energy.

ACTION: Notice of meeting postponement.

SUMMARY: An open meeting of the Fusion Energy Advisory Committee that was scheduled to be held on October 12–13, 1995, at 9 a.m., at the Renaissance Hotel in Washington, DC has been postponed. This meeting was announced in the Federal Register on Friday, September 22, 1995 (60–FR 49268).

Issued at Washington DC, on October 5, 1995.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–25218 Filed 10–11–95; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER95–979–000, et al.]

Northeast Utilities Service Company, et al.; Electric Rate and Corporate Regulation Filings

October 4, 1995.

Take notice that the following filings have been made with the Commission:

1. Northeast Utilities Service Company

[Docket No. ER95–979–000]

Take notice that Northeast Utilities Service Company (NUSCO), on September 13, 1995, tendered for filing, an amendment to the filing in the above referenced docket.

NUSCO states that a copy of this filing has been mailed to Westfield.

NUSCO requests that this change in rate schedule become effective on May 1, 1995.

Comment date: October 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER95–558–000]

Take notice that on September 18, 1995, GPU Service Corporation (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company, amended its original submittal in this docket. The purpose of GPU's original submittal and amendment is to provide an explanation of the treatment of the cost of emission allowances under the GPU Power Pooling Agreement.

GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: October 19, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. NAP Trading and Marketing, Inc.

[Docket No. ER95–1278–000]

Take notice that on September 29, 1995, NAP Trading and Marketing, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: October 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Louisville Gas and Electric Company

[Docket No. ER95–1776–000]

Take notice that on September 18, 1995, Louisville Gas and Electric Company tendered for filing copies of service agreements between Louisville

Gas and Electric Clearinghouse, Inc. under Rate GSS.

Comment date: October 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Louisville Gas and Electric Company

[Docket No. ER95–1777–000]

Take notice that on September 18, 1995, Louisville Gas and Electric Company tendered for filing copies of service agreements between Louisville Gas and Enron Power Marketing, Inc. under Rate GSS.

Comment date: October 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Louisville Gas and Electric Company

[Docket No. ER95–1778–000]

Take notice that on September 18, 1995, Louisville Gas and Electric Company tendered for filing copies of service agreements between Louisville Gas and Electric Company and Rainbow Energy Marketing Corporation under Rate GSS.

Comment date: October 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Illinois Power Company

[Docket No. ER95–1779–000]

Take notice that on September 18, 1995, Illinois Power Company (IPC) tendered for filing an Interchange Agreement between IPC and CATEX Vitol Electric L.L.C. (CVE). IPC states that the purpose of this agreement is to provide for the buying and selling of capacity and energy between IPC and CVE.

Comment date: October 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Washington Water Power Company

[Docket No. ER95–1780–000]

Take notice that on September 18, 1995, the Washington Water Power Company (WWP), tendered for filing a signed service agreement previously approved as an unsigned service agreement under FERC Electric Tariff Volume No. 4 with CATEX Vitol Electric, L.L.C. A Certificate of Concurrence is included with respect to exchanges.

Comment date: October 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Portland General Electric Company

[Docket No. ER95–1781–000]

Take notice that on September 15, 1995, Portland General Electric Company (PGE) tendered for filing under FERC Electric Tariff, 1st Revised Volume No. 2, executed Service Agreements between PGE and the City of Anaheim Public Utilities Department, Colockum Transmission Company, Inc., Lassen Municipal Utility District, Montana Power Company, Northern California Power Agency, Public Utility District No. 1 of Snohomish County, City of Azusa Light & Water District, National Electric Associates L.P., Citizens Lehman Power Sales, and Southern Energy Marketing, Inc.

Pursuant to the Commission's order issued July 30, 1993 (Docket No PL93–2–002), PGE respectfully requests the Commission grant a waiver of the notice requirements to allow the executed Service Agreements to become effective on the dates contained in the filing letter. Copies of the filing were served upon the list of entities on the Certificate of Service Attachment to the filing letter.

Comment date: October 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. New England Power Pool

[Docket No. ER95–1782–000]

Take notice that on September 15, 1995, the New England Power Pool (NEPOOL) Executive Committee filed an amendment to the NEPOOL Agreement, dated as of July 1, 1995, (Amendment) which changes the provisions of the NEPOOL Agreement (NEPOOL FPC No. 2) dated as of September 1, 1971, as previously amended by twenty-nine amendments and proposed to be amended by another amendment now pending before the Commission. NEPOOL has requested an effective date for the Amendment of November 15, 1995.

The NEPOOL Executive Committee states that the Amendment is intended to facilitate broader membership and participation in NEPOOL of non-utility entities and others that are not now NEPOOL members but are involved in the wholesale bulk power market in New England.

Comment date: October 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Wisconsin Electric Power Company

[Docket No. ER95–1784–000]

Take notice that Wisconsin Electric Power Company (Wisconsin Electric) on September 18, 1995, tendered for filing an Electric Service Agreement and a Transmission Service Agreement between itself and NorAm Energy Services, Inc. (NorAm). The Electric Service Agreement provides for service under Wisconsin Electric's Coordination Sales Tariff. The Transmission Service Agreement allows NorAm to receive transmission service under Wisconsin Electric's proposed FERC Point to Point Transmission Tariff, currently pending under Docket No. ER95–1747–000, Rate Schedule STNF.

Wisconsin Electric requests an effective date of sixty days from date of filing. Copies of the filing have been served on NorAm, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: October 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. CINergy Services, Inc.

[Docket No. ER95–1785–000]

Take notice that on September 18, 1995, CINergy Services, Inc. (CINergy) tendered for filing service agreements under CINergy's Non-Firm Point-to-Point Transmission Service Tariff (the Tariff) entered into by: Stand Energy Corporation, CATEX Vitol Electric, L.L.C. and NorAm Energy Services, Inc.

Comment date: October 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Florida Power & Light Company

[Docket No. ER95–1790–000]

Take notice that on September 19, 1995, Florida Power & Light Company (FPL) tendered for filing proposed service agreements with Tennessee Valley Authority for transmission service under FPL's Transmission Tariff No. 2 and FPL's Transmission Tariff No. 3.

FPL requests that the proposed service agreements be permitted to become effective on October 1, 1995, or as soon thereafter as practicable.

Comment date: October 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Rochester Gas and Electric Corporation

[Docket No. ER95–1791–000]

Take notice that Rochester Gas and Electric Corporation on September 19, 1995, tendered for filing a Service Agreement for acceptance by the Federal Energy Regulatory Commission (Commission) between RG&E and KCS Power Marketing, Inc. The terms and conditions of service under this Agreement are made pursuant to RG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER94–1279–000. RG&E also has requested waiver of the 60-day notice provision.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: October 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. PacifiCorp

[Docket No. ER95–1792–000]

Take notice that PacifiCorp on September 19, 1995, tendered for filing Service Agreements under PacifiCorp's FERC Electric Tariff, Second Revised Volume No. 3.

Copies of this filing were supplied to Azusa Light & Power Department, Eugene Water & Board, Citizens Lehman Power, Coastal Electric Services Company, Grant County PUD No. 2, Koch Power Services Inc., Basin Electric Power Cooperative, City of Needles, Energy Services Inc., Holly Cross Electric Association, Inc., J. Aron & Company, Montana-Dakota Utilities Co., Municipal Electric Association of Nebraska, NMPP Energy, Grays Harbor PUD No. 1, Sidney Electric Utility, Springfield Utility Board, Tenneco Marketing Company, Inc., TransCanada Northridge Power Limited, the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: October 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. Montaup Electric Company

[Docket No. ER95–1793–000]

Take notice that on September 19, 1995, Montaup Electric Company (Montaup) filed an executed service agreement between itself and Taunton Municipal Lighting Plant for transmission service under Montaup's FERC Electric Tariff, Original Volume No. II. Montaup requests waiver of the 60-day notice requirement so that the agreement may become effective on November 1, 1995.

Comment date: October 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. Mississippi Power Company

[Docket No. ER95–1796–000]

Take notice that Mississippi Power Company, on September 20, 1995, tendered for filing a Service Delivery Point Contract with Southern Pine Electric Power Association and South Mississippi Electric Power Association. The contract was taken pursuant to Mississippi's Electric Tariff, First Revised Volume No. 1. The contract will permit Mississippi Power to provide wholesale, all-requirements electric service to Southern Pine Electric Power Association and South Mississippi Electric Power Association at a new service delivery point to be known as West Forest.

Copies of the filing were served upon Southern Pine Electric Power Association, South Mississippi Electric Power Association, the Mississippi Public Service Commission, and the Mississippi Public Utilities Staff.

Comment date: October 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

18. Appalachian Power Company

[Docket No. ER95–1797–000]

Take notice that on September 20, 1995, American Electric Power Service Corporation (AEPSC), on behalf of Appalachian Power Company (APCO) tendered for filing, as an initial rate schedule, a Power Supply Agreement between (APCO) and North Carolina Electric Membership Corporation (NCEMC).

The Power Supply Agreement provides NCEMC a 205 MW firm power supply for 15 years. Copies of the filing were served upon NCEMC and the affected state regulatory commissions.

Comment date: October 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

19. Jersey Central Power & Light Company; Metropolitan Edison Company; Pennsylvania Electric Company

[Docket No. ER95–1798–000]

Take notice that on September 20, 1995, GPU Service Corporation (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (jointly referred the ''GPU Operating Companies''), filed an executed Service Agreement between GPU and CMEX Energy, Inc. (CMEX), dated September 14, 1995. This Service Agreement specifies that CMEX has agreed to the rates, terms and conditions of the GPU Operating Companies' Operating Capacity and/or Energy Sales Tariff (''Sales Tariff'') designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995 in *Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co.*, Docket No. ER95–276–00 and allows GPU and CMEX to enter into separately scheduled transactions under which the GPU Operating Companies will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than the GPU Operating Companies' cost of service.

GPU requests a waiver of the Commission's notice requirements for good cause shown and an effective date of September 14, 1995 for the Service Agreement.

GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania and Hartford Power Sales, L.L.C.

Comment date: October 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

20. Pennsylvania Electric Company; Metropolitan Edison Company

[Docket No. ER95–1811–000]

Take notice that on September 21, 1995, West Penn Power Company and The Potomac Company filed an informational filing on behalf of Pennsylvania Electric Company and Metropolitan Edison Company to include in the public record an adjustment to a component of a formula rate included in an interconnection agreement entered into by the parties.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: October 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

21. Long Island Lighting Company

[Docket No. ER95–1839–000]

Take notice that Long Island Lighting Company (LILCO) on September 21, 1995, tendered for filing an Interconnection Construction and Interconnection Agreement (ICIA) between LILCO and the Village of Freeport (Freeport).

The ICIA provides, among other things, for the installation and initial construction of a new 138 KiloVolt interconnection between LILCO's and Freeport's electric systems. It also provides for the on-going operation, maintenance, repair, replacement, relocation, and removal of such interconnection. LILCO requests a waiver of the Commission's notice requirements to permit the ICIA to become effective on September 28, 1995.

LILCO states that copies of this filing have been served by LILCO on the New York State Public Service Commission, the New York Power Authority, and Freeport.

Comment date: October 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

22. Warbasse-Cogeneration Technologies Partnership L.P.

[Docket Nos. QF88–438–002 and EL95–80–000]

Take notice that on September 25, 1995, Warbasse-Cogeneration Technologies Partnership L.P.(Warbasse), tendered for filing a request for limited waiver of the Commission's Regulations under the Public Utility Regulatory Policies Act of 1978 (PURPA). Warbasse requests the Commission to temporarily waive the efficiency standard for qualifying cogeneration facilities as set forth in Section 292.205 of the Commission's Regulations, implementing Section 201 of PURPA, as amended, 18 CFR 292.205, with respect to its 42 MW cogeneration facility located in Brooklyn, New York. Specifically, Warbasse requests waiver of the efficiency standard for the calendar year 1994.

Comment date: October 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

23. Jersey Central Power & Light Company; Metropolitan Edison Company; Pennsylvania Electric Company

[Docket No. ER95–1799–000]

Take notice that on September 20, 1995, GPU Service Corporation (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (the GPU Companies), filed an Hourly Energy Transmission Service Agreement between GPU and Hartford Power Sales, L.L.C. (Agreement). Under the Agreement, the GPU Companies will provide Hourly Energy Transmission Service consisting of non-firm transmission service over their transmission facilities between the point(s) of interconnection between Cleveland Electric Illuminating Company and Pennsylvania Electric Company and the point(s) of interconnection between Pennsylvania Electric Company and Niagara Mohawk Power Corporation.

GPU requests waiver of the Commission's notice requirements for good cause shown and an effective date of September 21, 1995.

GPU has served copies of the filing on regulatory commissions in the States of Pennsylvania and New Jersey and Hartford Power Sales, L.L.C.

Comment date: October 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

24. Southwestern Electric Power Company

[Docket No. ER95–1794–000]

Take notice that on September 19, 1995, Southwestern Electric Power Company (SWEPCO) submitted a service agreement establishing Delhi Energy Services, Inc. as a customer under SWEPCO's umbrella Coordination Sales Tariff CST–1 (CST–1 Tariff).

SWEPCO requests an effective date of August 28, 1995 for the service agreement. Accordingly, SWEPCO seeks waiver of the Commission's notice requirements. Copies of this filing were served upon Delhi Energy Services, Inc. and the Public Utility Commission of Texas.

Comment date: October 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25229 Filed 10–11–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EG95–95–000, et al.]

PCI Queensland Corporation, et al.; Electric Rate and Corporate Regulation Filings

October 3, 1995.

Take notice that the following filings have been made with the Commission:

1. PCI Queensland Corporation [Docket No. EG95–95–000]

[Docket No. EG–95–000]

On September 26, 1995, PCI Queensland Corporation (the ''Applicant'') whose address is 900 19th Street, N.W., Washington, D.C. 20006, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

The Applicant states that it will be engaged directly and exclusively in the business of owning undivided interests in Unit 1 and Unit 2 of the Stanwell Power Station, each an approximately 320 MW (net) coal-fired generating facility located near the village of Stanwell, in Queensland, Australia, and selling electric energy at wholesale, as that term has been interpreted by the Commission. The Applicant requests a determination that the Applicant is an exempt wholesale generator under Section 32(a)(1) of the Public Utility Holding Company Act of 1935.

Comment date: October 26, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Queensland Unit 1 Generating Trust I

[Docket No. EG95–96–000]

On September 26, 1995, Queensland Unit 1 Generating Trust I (the ''Applicant'') whose address is c/o Wilmington Trust Company, Rodney Square North, 1100 North Market Square, Wilmington, Delaware, 19890, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

The Applicant states that it will be engaged directly and exclusively in the business of owning an undivided interest in Unit 1 of the Stanwell Power Station, an approximately 320 MW (net) coal-fired generating facility located near the village of Stanwell, in Queensland, Australia, and selling electric energy at wholesale, as that term has been interpreted by the Commission. The Applicant requests a determination that the Applicant is an exempt wholesale generator under Section 32(a)(1) of the Public Utility Holding Company Act of 1935.

Comment date: October 26, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Queensland Unit 1 Generating Trust II

[Docket No. EG95–97–000]

On September 26, 1995, Queensland Unit 1 Generating Trust II (the ''Applicant'') whose address is c/o

Wilmington Trust Company, Rodney Square North, 1100 North Market Square, Wilmington, Delaware, 19890, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

The Applicant states that it will be engaged directly and exclusively in the business of owning an undivided interest in Unit 1 of the Stanwell Power Station, an approximately 320 MW (net) coal-fired generating facility located near the village of Stanwell, in Queensland, Australia, and selling electric energy at wholesale, as that term has been interpreted by the Commission. The Applicant requests a determination that the Applicant is an exempt wholesale generator under Section 32(a)(1) of the Public Utility Holding Company Act of 1935.

Comment date: October 26, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Queensland Unit 1 Generating Trust III

[Docket No. EG95–98–000]

On September 26, 1995, Queensland Unit 1 Generating Trust III (the ''Applicant'') whose address is c/o Wilmington Trust Company, Rodney Square North, 1100 North Market Square, Wilmington, Delaware, 19890, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

The Applicant states that it will be engaged directly and exclusively in the business of owning an undivided interest in Unit 1 of the Stanwell Power Station, an approximately 320 MW (net) coal-fired generating facility located near the village of Stanwell, in Queensland, Australia, and selling electric energy at wholesale, as that term has been interpreted by the Commission. The Applicant requests a determination that the Applicant is an exempt wholesale generator under Section 32(a)(1) of the Public Utility Holding Company Act of 1935.

Comment date: October 26, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. Queensland Unit 2 Generating Trust I

[Docket No. EG95–99–000]

On September 26, 1995, Queensland Unit 2 Generating Trust I (the ''Applicant'') whose address is c/o Wilmington Trust Company, Rodney Square North, 1100 North Market Square, Wilmington, Delaware, 19890, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

The Applicant states that it will be engaged directly and exclusively in the business of owning an undivided interest in Unit 2 of the Stanwell Power Station, an approximately 320 MW (net) coal-fired generating facility located near the village of Stanwell, in Queensland, Australia, and selling electric energy at wholesale, as that term has been interpreted by the Commission. The Applicant requests a determination that the Applicant is an exempt wholesale generator under Section 32(a)(1) of the Public Utility Holding Company Act of 1935.

Comment date: October 26, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

6. Queensland Unit 2 Generating Trust II

[Docket No. EG95–100–000]

On September 26, 1995, Queensland Unit 2 Generating Trust II (the ''Applicant'') whose address is c/o Wilmington Trust Company, Rodney Square North, 1100 North Market Square, Wilmington, Delaware, 19890, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

The Applicant states that it will be engaged directly and exclusively in the business of owning an undivided interest in Unit 2 of the Stanwell Power Station, an approximately 320 MW (net) coal-fired generating facility located near the village of Stanwell, in Queensland, Australia, and selling electric energy at wholesale, as that term has been interpreted by the Commission. The Applicant requests a determination that the Applicant is an exempt wholesale generator under Section 32(a)(1) of the Public Utility Holding Company Act of 1935.

Comment date: October 26, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

7. Queensland Unit 2 Generating Trust III

[Docket No. EG95–101–000]

On September 26, 1995, Queensland Unit 2 Generating Trust III (the ''Applicant'') whose address is c/o Wilmington Trust Company, Rodney Square North, 1100 North Market Square, Wilmington, Delaware, 19890, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

The Applicant states that it will be engaged directly and exclusively in the business of owning an undivided interest in Unit 2 of the Stanwell Power Station, an approximately 320 MW (net) coal-fired generating facility located near the village of Stanwell, in Queensland, Australia, and selling electric energy at wholesale, as that term has been interpreted by the Commission. The Applicant requests a determination that the Applicant is an exempt wholesale generator under Section 32(a)(1) of the Public Utility Holding Company Act of 1935.

Comment date: October 26, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

8. Consolidated Edison Company of New York

[Docket No. ER94–1217–002]

Take notice that on September 6, 1995, tendered for filing its compliance filing in the above-referenced docket.

Comment date: October 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Georgia Power Company

[Docket No. ER95–1618–000]

Take notice that on September 27, 1995, Georgia Power Company (Georgia Power) submitted for filing additional information requested by Staff with respect to certain amendments to Georgia Power's Partial Requirements Tariff, First Revised Volume 2 previously filed in this docket. Such information is comprised of revisions to the background report entitled ''Recovery of Sulfur Dioxide Allowance Costs-Partial Requirements Tariff,'' which clarifies the methodology used for the payment of the replacement cost of allowances in equivalent allowance and allow for the return of whole

emission allowances with fractions of allowances, if any, to be settled in cash.

Georgia Power renews its request for a January 1, 1995 effective date and states that copies of the filing have been served on the Municipal Electric Authority of Georgia and the City of Dalton.

Comment date: October 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Interregional Transmission Coordination Forum

[Docket No. ER95–1738–000]

Take notice that on September 11, 1995, Interregional Transmission Coordination Forum tendered for filing a Notice of Cancellation of Rate Schedule FERC No. 1.

Comment date: October 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Southwestern Electric Power Company

[Docket No. ER95–1750–000]

Take notice that on September 14, 1995, Southwestern Electric Power Company (SWEPCO) submitted a service agreement establishing Entergy Services, Inc. as a customer under SWEPCO's umbrella Coordination Sales Tariff CST–1 (CST–1 Tariff).

SWEPCO requests an effective date of August 16, 1995 for the service agreement. Accordingly, SWEPCO seeks waiver of the Commission's notice requirements. Copies of this filing were served upon Entergy Services, Inc., the Arkansas Public Service Commission, the Louisiana Public Service Commission and the Public Utility Commission of Texas.

Comment date: October 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Niagara Mohawk Power Corporation

[Docket No. ER95–1754–000]

Take notice that on September 14, 1995, Niagara Mohawk Power Corporation (NMPC) tendered for filing with the Federal Energy Regulatory Commission an executed Service Agreement between NMPC and Phibro Inc. (Phibro). This Service Agreement specifies that Phibro has signed on to and has agreed to the terms and conditions of NMPC's Power Sales Tariff designated as NMPC's FERC Electric Tariff, Original Volume No. 2. This Tariff, approved by FERC on April 15, 1995, 1994, and which has an effective date of March 13, 1993, will allow NMPC and Phibro to enter into separately scheduled transactions under which NMPC will sell to Phibro capacity and/or energy as the parties may mutually agree.

In its filing letter, NMPC also included a Certificate of Concurrence executed by the Purchaser.

NMPC requests an effective date of August 29, 1995. NMPC has requested waiver of the notice requirements of good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and Phibro.

Comment date: October 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Texaco Natural Gas Inc.

[Docket No. ER95–1787–000]

Take notice that on September 18, 1995, Texaco Natural Gas Inc. (TNGI) tendered for filing a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1 to be effective no later than sixty (60) days from the date of its filing.

TNGI intends to serve the electric power market as both a broker and a marketer of electric power. TNGI seeks authority to purchase electric capacity, energy or transmission services from third parties, and to sell such capacity and energy to others at market-based rates. TNGI is not affiliated, directly or indirectly, with any investor-owned utility or any entity owning or controlling electric transmission facilities. TNGI is affiliated with several entities that own or control assets used for the generation of electric power. Each of these projects involves the generation of power by a ''qualifying facility'' under the Public Utility Regulatory Policies Act. Rate Schedule No. 1 provides for the sale of electricity at market-based rates.

Comment date: October 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Connecticut Yankee Atomic Power Company

[Docket No. FA94–23–000]

Take notice that on September 18, 1995, Connecticut Yankee Atomic Power Company tendered for filing a compliance filing in the above-referenced docket.

Comment date: October 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25231 Filed 10–11–95; 8:45 am]

BILLING CODE 6717–01–P

[Project Nos. 2406–002 and 2465–003 South Carolina; Project No. 1267–000 South Carolina]

Duke Power Company, Greenwood County, SC; Notice of Availability of Environmental Assessment

October 5, 1995.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) Regulations, 18 CFR Part 380 (Order No. 486, 52 F.R. 47897), the Office of Hydropower Licensing has reviewed the applications for new licenses for the following three existing hydroelectric Projects, all of which are located on the Saluda River in South Carolina: (1) The Saluda Station Project (No. 2406–002), located in Greenville and Pickens Counties, near Greenville, SC; (2) the Hollidays Bridge Project (No. 2465–003), located in Greenville and Anderson Counties near Greenville, SC; and (3) the Buzzards Roost Project (No. 1267–000), located in Newberry, Laurens, and Greenwood Counties near Greenwood, SC. The Commission has prepared a Final Multiple Project Environmental Assessment (EA) covering all three projects. The FEA contains the Commission staff's analysis of the existing and potential future environmental impacts of the projects and has concluded that licensing the projects, with appropriate environmental protective or enhancement measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3104, of the Commission's offices

at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25230 Filed 10–11–95; 8:45 am]

BILLING CODE 6717–01–M

Western Area Power Administration

Record of Decision for the Energy Planning and Management Program

AGENCY: Western Area Power Administration, DOE.

ACTION: Record of decision.

SUMMARY: The Department of Energy, Western Area Power Administration (Western) completed a draft and final environmental impact statement (EIS), DOE/EIS–0182, on its Energy Planning and Management Program (Program). Western is publishing this Record of Decision (ROD) to adopt the Program, which will require the preparation of integrated resource plans (IRP) by Western's long-term firm power customers, and establish a framework for extension of existing firm power resource commitments to customers.

DATES: Western will proceed to take action with the publication of this ROD. All parties who have previously expressed an interest in the Program will be notified and copies of the ROD made available to them.

FOR FURTHER INFORMATION CONTACT: Robert C. Fullerton, Western Area Power Administration, P.O. Box 3402, A3100, Golden, CO 80401–0098, (303) 275–1610.

SUPPLEMENTARY INFORMATION: Western has prepared this (ROD) pursuant to the National Environmental Policy Act of 1969 (NEPA), Council on Environmental Quality NEPA implementing regulations (40 CFR Parts 1500–1508), and DOE NEPA implementing regulations (10 CFR Part 1021). This ROD is based on information contained in the ''Energy Planning and Management Program Environmental Impact Statement,'' DOE/EIS–0182, and related coordination with agencies, power customers, interested groups, and individuals. Western has considered all comments received on the proposed Program in preparing this ROD. The final Program also implements the provisions of section 114 of the Energy Policy Act of 1992 (EPAct), Public Law 102–486.

Background

Western proposed the Program in concept on April 19, 1991 (56 FR 16093). The goal of the Program was, and is, to require planning and efficient energy use by Western's long-term firm power customers and to extend Western's firm power resource commitments as contracts expire. Western published its notice of intent to prepare an EIS in the Federal Register on May 1, 1991 (56 FR 19995).

Combined public information/environmental scoping meetings on the proposed Program were held in seven states in June 1991. Based on the feedback received from these meetings, Western developed alternatives to be analyzed in the EIS. Public alternatives workshops were held in eight cities in Western's service area during March and April 1992.

President Bush signed EPAct into law on October 24, 1992. Section 114 of EPAct requires the preparation of IRPs by Western's customers, and amends Title II of the Hoover Power Plant Act of 1984. Western adjusted its proposed Program to fully incorporate the provisions of this law.

The draft EIS was printed and distributed during March of 1994. Notices of availability for the draft EIS were published in the Federal Register by Western on March 31, 1994 (59 FR 15198), and by the Environmental Protection Agency (EPA) on April 1, 1994 (59 FR 15409). Eight public hearings were held throughout Western's service area during the 45-day public comment period. Western did not identify a preferred alternative in the draft EIS, but solicited input from interested parties and the public as to what they thought the appropriate alternative should be.

Because the Program is also a rule-making action, Western conducted a public process under the Administrative Procedure Act (APA), coordinated with the ongoing NEPA process. A notice of the proposed Program was published in the Federal Register on August 9, 1994 (59 FR 40543), with seven public information/comment forums held at various locations during September 1994.

With input from oral and written comments from both the NEPA and APA processes, Western modified the EIS alternatives where appropriate, and revised the draft EIS. The final EIS was distributed to the public on June 27, 1995. The EPA notice of availability was published on July 21, 1995 (60 FR 37640). The final EIS identified an agency preferred alternative, a combination of features from Alternatives 5 and 6, as presented in the draft EIS. The alternatives considered in the EIS are described in the following section.

Alternatives

The EIS evaluated a total of 13 alternatives, including a no-action alternative. All but the no-action alternative comprised different approaches to implementing the proposed Program. The two parts of the proposed Program are the IRP provision and the Power Marketing Initiative (PMI). The IRP provision requires customers to prepare IRPs, and establishes administrative procedures and requirements. Small customers could be exempt from the IRP requirement, but would still have to accomplish some resource planning on a simpler scale as needed.

Options for the PMI include PMI Extensions, PMI Limited Extensions, and PMI Non-extensions. These options, which are explained more fully in the EIS, include varying amounts of existing resources (from 90 to 100 percent of the present commitments) that would be extended to Western's power customers, varying the lengths of contracts (from 10 to 35 years), determining the existence and size of a resource pool ranging from 0 to 10 percent, establishing options for how pooled resources would be generally allocated, and setting penalties for noncompliance.

The alternatives in the EIS consisted of various reasonable combinations of the above components. The summary of the EIS contains a table, Table S.3, which concisely describes the principal attributes of each alternative. That table is reprinted here. The no-action alternative assumes the continuation of Western's Guidelines and Acceptance Criteria for the Conservation and Renewable Energy Program. The alternatives are not described in further detail here, as they are combinations of the components discussed above, and the EIS analysis did not reveal any important differences in impacts among the alternatives, except with the no-action alternative.

All alternatives had positive impacts when compared to no action, as each alternative would encourage energy efficiency on the part of Western's customers. The predicted effect of the Program within Western's service territory is reduced energy usage of approximately 2 to 6 percent in the year 2015, depending on the alternative. Western's customers are forecast to use 5 to 15 percent less energy in 2015, depending on the alternative. Within Western's service territory, the savings varies from area to area, depending primarily on the amount of conservation activity already accomplished and the number and type of existing energy-efficient buildings.

The energy saved reduces the need for generation which, in turn, reduces pollution as compared with the no action alternative. Although small when compared with regional generation needs, the reduction of emissions in absolute terms is important. A typical 500-megawatt coal plant produces about 2,600 tons of sulphur oxides, 5,200 tons of oxides of nitrogen, 500 tons of total suspended particulates, and 3.2 million tons of carbon dioxide annually. The Program alternatives are estimated to reduce annual emissions by the equivalent of one to two such coal plants in 2015.

With the exception of the no-action alternative, the effects among alternatives are very similar, positive, and in many cases within the level of uncertainty of the analyses. The summary tables of impacts included in the EIS (Tables S.5 and S.6) show that each alternative except the no-action alternative is environmentally preferable in some impact category. Because of the small differences in impacts, their positive nature, and the uncertainty inherent in the future projections, none of the alternatives was clearly superior to the others in terms of overall environmental impact. Therefore, although none of the action alternatives can be regarded as environmentally preferable overall, each of them is environmentally preferable when compared to the no-action alternative.

Scoping Issues Not Addressed

A number of issues were raised during the scoping process that were determined to be outside the scope of the EIS. These issues included transmission access, incentive rates and rate design, and river and dam operations. Western already has an open transmission access policy. Rates and rate design are accomplished under a separate public rate-setting process as set forth in 10 CFR 903, and are not a part of a power marketing plan. River and dam operations are not determined by Western, but by the operating agencies, usually the Bureau of Reclamation (Reclamation) or the Corps of Engineers.

Modifications to the Preferred Alternative

Two minor modifications to the preferred alternative were found to be necessary to make the final EIS consistent with the final Program regulations, which will be published in the Federal Register shortly after publication of this ROD. The modifications are procedural or administrative in nature, and do not affect the analyses in the EIS.

The first modification involves the timing of extension contract offers to customers of the Pick-Sloan Missouri Basin Program-Eastern Division and the Loveland Area Projects. The EIS indicates that extension contracts would be offered upon publication of the ROD in the Federal Register, subject to subsequent approval of the submitted IRP/small customer plan. Under the final rule contracts signed pursuant to the PMI would not be subject to termination if an IRP/small customer plan is disapproved. In recognition of the fact that extension contracts will make the penalty provisions of section 114 of EPAct applicable to customers immediately, the final rule will allow extension contracts to be unconditionally offered for execution no sooner than the effective date of the final regulations.

The second modification involves the applicability of penalty provisions for nonsubmittal of annual progress reports in a timely manner, as described in the EIS. In the final regulations, the penalty provision will not be applied to nonsubmittal or untimely submittal of annual reports. There are two reasons for this change: EPAct does not provide for application of a penalty in this circumstance, and a penalty would be harsh and out of proportion to the importance of annual report submittal.

In the final regulations, two decisions will be made that are within ranges set forth in the preferred alternative. The term of contract is established at 20 years, within the range of 18–20 years analyzed for the preferred alternative. For the Pick-Sloan Missouri Basin Program-Eastern Division and the Loveland Area Projects, the final rule establishes an initial resource pool of 4 percent, with two additional increments of up to 1 percent each, 5 and 10 years into the extension term.

Responses to Late Comments on the Program

Several comment letters were received postmarked after May 16, 1994, the close of the comment period on the EIS, and too late to be incorporated in the final EIS. The following section summarizes those comments and addresses them.

1. *Comment:* Program implementation in Texas should mean less need for energy, which would lead to less water demand for power generation at the Falcon and Amistad projects. Texas law permits but does not mandate integrated resource planning, and the Texas Public Utility Commission has many IRP elements in place. Comprehensive IRP rules are under consideration in Texas. Several utilities are experimenting with IRP processes. Texas requires biennial filings of long-term forecasts and capacity resource plans from all generating utilities, including municipal utilities. Several utilities in Texas have achieved significant demand-side management program impacts since 1981, and the PUC has had a biennial energy efficiency reporting rule since August of 1984. The Texas PUC has not completed an IRP review process for any utility. Two footnotes in Chapter 3 of the draft EIS refer incorrectly to a point of contact at the Texas PUC. Table 3.9 in the draft EIS does not give sufficient recognition to the status of IRP in Texas. The draft EIS does not adequately emphasize the Texas PUC's requirement for demand and supply-side solicitation as part of its power plant licensing regulations (Texas Office of State-Federal Relations).

Response: Since Western's resources are favorably priced in comparison to other sources of power, energy efficiency improvements resulting from IRP implementation would result in conservation of thermal resources or purchased electricity other than hydropower. No impact on hydropower generation will take place.

The information on the status of IRP in Texas was largely derived from national surveys that are regarded as authoritative in the utility industry. Obviously, the best source of information on the status of Texas PUC practices and regulations is the PUC itself. Western accepts the information provided by this commenter as authoritative.

2. *Comment:* The direct environmental impacts of thermal generation cannot be known until the location and projected emission levels are known. In the absence of this information, we can only express our concern about the potential impacts of locating plants in ozone nonattainment areas in the state of Texas (Texas Natural Resource Conservation Commission).

Response: Western agrees that the location of new generation is an important factor that influences air quality. Western's Program will increase efficient energy use and, compared with no action, will reduce the need for new generation. Any entity proposing new thermal generation for construction must apply for necessary permits from appropriate authorities such as the State of Texas.

3. *Comment:* It is more practical and environmentally sound to make contract extension and allocation decisions on a project-by-project basis, as Western has

done in the past. A project-by-project approach will make it easier for Western to coordinate its efforts with those of the Bureau of Reclamation. The power contract extension alternatives proposed by Western may create unrealistic expectations among Western's customers, which may be difficult to satisfy in the event of future changes in the operations of Reclamation dams. Decisions should not be made now on the marketing of power during time periods more than ten years into the future. Western's draft EIS may lock in resources to an inappropriate degree. Western needs to analyze the environmental effects of (1) rewarding customers that conserve energy with a larger power allocation, (2) providing power to entities that intend to meet future power needs with fossil fuel-fired generation, and (3) providing more Western power for fish and wildlife purposes. The impacts of increasing the costs of Western's power also need to be evaluated (Bureau of Reclamation).

Response: The final Program provides a general framework for marketing Western's long-term firm hydroelectric resources. Many project-specific determinations are necessary before any final decisions can be made on marketing power. Such important issues as the resource available for marketing in the future, the size of a resource pool, any adjustments to the size of this pool, and allocation criteria for new customers must be decided on a project-specific basis, with public input and appropriate environmental documentation. Project-specific decisions will need to be made on whether to apply the Power Marketing Initiative to Western's projects in the future, such as the Colorado River Storage Project and the Central Valley Project. All of these decisions will be made in the future, and on a project-specific basis. Western is not making decisions today about all of the specifics of power marketing in the future.

The Program will not create unrealistic expectations among Western's power customers. Project-specific extension percentages will be applied to the marketable resource determined to be available at the time future resource extensions begin. This approach will allow Western to accommodate changes in operations by the generating agencies before the extension term begins. The Program also allows Western to adjust its marketable resources on 5 years' notice after the extension term starts. This feature allows the flexibility to respond to changing operations or hydrology. Western's customers have been made aware of these Program features.

Suggestions on how Western might allocate its power to new customers will be addressed during project-specific allocation processes in the future. For the two projects initially covered by the Power Marketing Initiative, resource pool size was determined based upon meeting a fair share of the needs of new customers within a project-specific marketing area. For other projects, the fair share needs of new customers will be determined at a time closer to the expiration date of existing contracts.

Rates are not analyzed as part of the Program EIS, as they are outside the scope of the Program. Rate issues should be addressed within Western's long-established public ratemaking process.

At a congressional hearing on June 16, 1994, the Commissioner of Reclamation expressed support for the Program proposal as documented in the testimony of Deputy Secretary of Energy White. At the hearing, Commissioner Beard stated that Deputy Secretary White's testimony ''reflects a very thorough attempt to look at the problem and to come forward with * * * a very unique and innovative set of solutions.''

Beard continued: ''I think the changes that [Deputy] Secretary White is recommending and that Western is going to be pursuing will help us * * * be able to deal with future problems * * * quicker and faster.'' WAPA Allocation of Hydroelectric Power: Oversight Hearing before the Subcommittee on Oversight and Investigations of the Committee on Natural Resources, House of Representatives, 103rd Congress, Second Session at 141–42 (June 16, 1994).

Decision

Western has selected the preferred alternative as described in the final EIS, with the modifications described earlier in this document, as its proposed action. This alternative best meets Western's Program requirements and the needs of Western's customers, while being responsive to the comments received on the proposed Program. The proposed action falls between Alternatives 5 and 6, described in the EIS, in terms of its component provisions. The specific impacts of the proposed action will fall somewhere between those identified for Alternatives 5 and 6, which are very similar to each other. Essential elements of the proposed action include requiring IRPs for Western's long-term firm power customers, with a small customer provision for those customers with total energy sales or usage of 25 gigawatt-hours or less. The extension period for Federal power resources will be 20 years.

Project-specific extensions over the entire contract term will be not less than 94 percent of the resource determined to be available at the time new contracts are signed for the Pick-Sloan Missouri Basin Program—Eastern Division and the Loveland Area Projects; the percentage will be determined later for other projects. A resource pool of up to 6 percent will be established for these two projects, consisting of an initial pool of 4 percent, with additional withdrawal opportunities of up to 1 percent 5 and 10 years into the contract term. The pool may be used for allocations to new customers, customer development of new technologies for conservation or renewable resources, and contingencies. Decisions on pools for other projects will be made at a later date.

Allocations may be adjusted on 5 years' notice for changes in operations and hydrology. This does not mean that any changes in operations will have to be deferred for 5 years; changes can be implemented immediately. Any shortfall in generation will be replaced with purchases or other resources until allocation adjustments are made. Purchased resources will be evaluated in an internal IRP process recently adopted through a separate public process. Project use withdrawals will be made in accordance with the principles set forth in existing marketing plans and contracts. The Program will carry the progressive penalty provisions prescribed in EPAct.

The IRP provision will be effective for all of Western's customers following publication of the final rule under the APA process. The PMI will be in effect for the Pick-Sloan Missouri Basin Program—Eastern Division and the Loveland Area Projects initially. Its application to the Salt Lake City Integrated Projects marketing plan will be determined following completion of the separate NEPA process currently under way on marketing before 2004. PMI application to the Central Valley Project will be evaluated during the project-specific NEPA process for the marketing of power after the year 2004. Application of the PMI to projects in the Phoenix Area will be considered closer to the time the existing power contracts expire.

No Mitigation Action Plan will be prepared for the Program, as the proposal involves no construction, and no mitigation was identified as necessary to implement the Program.

Issued at Golden, Colorado, September 21, 1995.

J.M. Shafer,

Administrator.

TABLE S.3.—SUMMARY OF ENERGY PLANNING AND MANAGEMENT PROGRAM ALTERNATIVES INCLUDING THE PREFERRED ALTERNATIVE

Program components	No action	Program alternatives											
		PMI extension							PMI limited extension		PMI non-extension		Preferred
	1	2	3	4	5	6	7	8	9	10	11	12	13
EMP	C&E, G&AC..	IRP	IRP	IRP	IRP with Small Customer Provision.	IRP with Small Customer Provision.	IRP with Small Customer Provision.	IRP	IRP	IRP with Small Customer Provision.	IRP	IRP with Small Customer Provision.	IRP with Small Customer Provision.
Extension Period.	Varies[a] .	15 yrs[b] .	25 yrs[b] .	35 yrs[b] .	15 yrs[b] .	25 yrs[b] .	35 yrs[b] .	25 yrs[b] .	10 yrs[c] .	10 yrs[c] .	Varies[a] .	Varies[a] .	18–20 years.
Percentage Allocation.	Varies[a] .	98%	95%	90%	98%	95%	90%	98%	100%[e] ..	100%[e] ..	Varies[a] .	Varies[a] .	Varies[f]
Resource Pool	None[d] ...	2%	5%	10%	2%	5%	10%	2%	None[e] ...	None[e] ...	None[d] ...	None[d] ...	Varies[g]
Adjustment Provisions.	None[d] ...	Limited ..	1 adjust.	2 adjust.	Limited ..	1 adjust	2 adjust	5 yr notice.	None[e] ...	None	None[d] ...	None[d] ...	5 year notice.
Penalty Provision.	10% Withdrawal.	10% to 30% surcharge, see Figure 2.1 and Table 2.4. Optional 10% power reduction.											

[a] To be determined by project-specific marketing plan.
[b] Contract extension begins at time of current expiration. Contracts are excluded upon receipt of IRP by Western.
[c] Contract extensions are executed at the time of IRP approval; extension will provide resource certainty to a customer for 10 years from the date of IRP approval. After 10 years, power marketing will be determined by project-specific marketing plans.
[d] Unless provided by project-specific marketing plan.
[e] Western assumes that the percent allocation after the limited extension period will be determined by project-specific marketing plans. For purposes of analysis, this draft EIS assumes a 90% allocation after the expiration of the 10-year extension period.
[f] Project-specific extensions of not less than 94% for the Pick-Sloan Missouri Basin Program-Eastern Division and the Loveland Area Projects; percentage to be determined for other projects.
[g] Total resource pool of up to 6% for the Pick-Sloan Missouri Basin Program-Eastern Division and Loveland Area Projects, which includes both an initial pool followed by additional withdrawal opportunities 5 and 10 years into the contract; other projects to be determined.

[FR Doc. 95–25222 Filed 10–11–95; 8:45 am]
BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5314–3]

Agency Information Collection Activities up for Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) listed below is coming up for renewal. Before submitting the renewal package to the Office of Management and Budget (OMB), EPA is soliciting comments on specific aspects of the collection as described below.

DATES: Comments must be submitted on or before December 11, 1995.

ADDRESSES: U.S. EPA, Wetlands Division (4502F), 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lori Williams, 202–260–5084, fax 202–260–8000.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities affected by the action are Federally recognized Indian Tribes who are applying to assume the Clean Water Act Section 404 permit program.

Title: Wetlands Indian Regulation; OMB #2040–0140; current ICR expires on February 28, 1996.

Abstract: Indian Tribes are eligible to request assumption of the Clean Water Act (CWA) Section 404 permit program. Tribes must demonstrate that they meet the requirements in Section 518 of CWA as well as the section 404 program specific requirements of 40 CFR part 233. Tribes seeking to assume the section 404 permit program must:

- Be Federally recognized,
- Carry out substantial governmental duties and powers over a Federal Indian reservation,
- Have appropriate authority to regulate reservation waters, and
- Be reasonably expected to be capable of administering the Section 404 program.

Tribes must submit documentation demonstrating that they meet these requirements. When EPA receives a complete assumption request from a Tribe, EPA will solicit comments from the Corps of Engineers, U.S. Fish and Wildlife Service and National Marine Fisheries Service about the adequacy of the Tribe's program. EPA will publish notice of the assumption request and solicit public comment on the request to assume the Federal permitting program. EPA will also hold public hearing(s) on the assumption request. EPA will review the documentation submitted by the Tribe, consider comments received from the public and the Federal review agencies in making its decision.

EPA eliminated unnecessary duplication when revised regulations were published in December 1994. Prior to this regulatory revision, Tribes first had to qualify for ''treatment as a State.'' Only after the Tribe completed the ''treatment as a State'' determination, could the Tribe apply to assume the Section 404 program. Under the revised regulations, this is all done at the same time with only one submission needed from the Tribe, instead of the previous two separate submissions.

EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The existing ICR is for 133 hours. The Tribe is required to submit this information only one time; at the time that the Tribe requests to assume the Federal Section 404 permit program. No person is required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR part 9.

Send comments regarding these matters, or any other aspect of the information collection, including suggestions for reducing the burden, to the address listed above.

Dated: September 29, 1995.

Robert H. Wayland III,

Director.

[FR Doc. 95–25258 Filed 10–11–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

First Charter Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 3, 1995.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. First Charter Corporation, Concord, North Carolina; to acquire 100 percent of the voting shares of Bank of Union, Monroe, North Carolina.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis, Minnesota; to acquire 100 percent of the voting shares of The Bank of Robstown, National Association, Robstown, Texas, d/b/a/ The Bank of Robstown, Robstown, Texas.

2. Omega City Holding Company, LaMoure, North Dakota; to merge with Marion Bank Holding Company, Marion, North Dakota, and thereby indirectly acquire State Bank of Marion, Marion, North Dakota.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Central Trust Company, Lander, Wyoming; to merge with Buffalo Investment Corporation, Buffalo Lake, Minnesota, and thereby indirectly acquire CenBank, Buffalo Lake, Minnesota.

Board of Governors of the Federal Reserve System, October 5, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–25238 Filed 10–11–95; 8:45 am]

BILLING CODE 6210–01–F

UJB Financial Corp., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than October 25, 1995.

A. Federal Reserve Bank of New York (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. UJB Financial Corp., Princeton, New Jersey; to acquire a new, unnamed subsidiary, and thereby engage in providing data-processing services to consumers and other financial institutions through ATMs to be acquired from Berkeley Federal Bank & Trust FSB, Palisades Park, New Jersey, pursuant to § 225.25(b)(7) of the Board's Regulation Y.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Barnett Banks, Inc., and Barnett Merger Corporation, both of Jacksonville, Florida; to acquire First Financial Bancshares of Polk County, Inc., Lake Wales, Florida, and thereby engage in the operation of a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–25239 Filed 10–11–95; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[File No. 932–3219]

Blenheim Expositions, Inc.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would, among other things, prohibit a Winter Park, Florida-based producer of franchise trade shows and expositions from misrepresenting survey results or making unsubstantiated earnings and success rate claims in promoting and advertising franchise shows.

DATES: Comments must be received on or before December 11, 1995.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Tom Cohn, Bureau of Consumer Protection, Federal Trade Commission, H–238, 6th Street & Pennsylvania Ave., NW., Washington, DC 20580. (202) 326–3532.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

In the Matter of Blenheim Expositions, Inc. a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Blenheim Expositions, Inc., a corporation, and it now appearing that Blenheim Expositions, Inc., a corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Blenheim Expositions, Inc., by its duly authorized officer; the attorneys for the aforementioned party; and counsel for the Federal Trade Commission, that:

1. Proposed respondent Blenheim Expositions, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 1133 Louisiana Avenue, Suite 210, in the City of Winter Park, State of Florida.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent of facts, other than jurisdictional facts, or of violations of law as alleged in the draft of compliant here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered That respondent, Blenheim Expositions, Inc., a corporation, its successors and assigns, and its officers; and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, affiliate, division or other device, in connection with the advertising, promotion, or marketing of franchise shows in or affecting commerce, as ''commerce'' is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, the existence, purpose, sample, contents, validity, results, conclusions or interpretations of any survey, poll, test, report or study.

II

It is further ordered That respondent, Blenheim Expositions, Inc., a corporation, its successors and assigns, and its officers; and respondent's agents,

representatives and employees, directly or through any corporation, subsidiary, affiliate, division or other device, in connection with the advertising, promotion, marketing, or conducting of franchise shows in or affecting commerce, as ''commerce'' is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing in any manner, directly or by implication:

A. The sales, income, or profits that current or prospective franchise owners have earned or can or will earn; or

B. The chances of success or success rates that franchise owners have enjoyed or can or will enjoy,

unless, at the time of making such representation, respondent possesses and relies upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the representation. For purposes of this Order, ''competent and reliable scientific evidence'' shall mean analyses, research, surveys, polls, reports, studies or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

III

It is further ordered That respondent, Blenheim Expositions, Inc., a corporation, its successors and assigns, and its officers, for a period of five (5) years after the date of entry of this Order, shall distribute, at each franchise show it promotes, directly or through any corporation, subsidiary, affiliate, division or other device, to at least 500 persons attending such show, or to each person attending such show if the total number of such persons is fewer than 500, a brochure entitled, ''A Consumer Guide To Buying A Franchise,'' provided to the respondent by the Federal Trade Commission. The Commission shall provide to the respondent one camera-ready copy of the brochure, and the respondent is responsible for the printing, and printing costs, of the brochure for distribution at the franchise shows. The brochures distributed by respondent pursuant to this paragraph shall be reproduced in a format substantially similar to the original format, as provided by the Federal Trade Commission; provided, however, that reproduction in a black and white format shall be deemed substantially similar to the original for purposes of this paragraph. Respondent may revise the text of said brochure or substitute another similar document only after submitting said revision or substitution to staff of the Commission, and receiving written approval thereof.

IV

It is further ordered That respondent, Blenheim Expositions, Inc., a corporation, its successors and assigns, and its officers, shall:

A. For a period of five (5) years after the date of the last dissemination by or on behalf of the respondent of any representation covered by this Order, maintain and upon request make available to the Federal Trade Commission or its staff for inspection and copying:

1. All advertisements and promotional materials setting forth such representation;

2. All polls, surveys, reports, studies, or other documents and materials relied upon by the respondent to substantiate such representation; and

3. All polls, surveys, reports, studies, or other documents and materials (such as correspondence) in the respondent's possession or control that contradict, qualify, or call into question such representation or the basis upon which the respondent relied for such representation;

B. For a period of five (5) years after the date of their creation, maintain and upon request make available to the Federal Trade Commission or its staff for inspection and copying such other documents and materials as shall demonstrate full compliance with this Order.

V

It is further ordered That, within thirty (30) days after service of this Order upon it, respondent, Blenheim Expositions, Inc., its successors and assigns shall distribute a copy of this Order to each of its operating divisions and to each of its officers, agents, representatives, or employees engaged in the preparation or placement of advertisements, promotional materials, or other such sales materials covered by this Order.

VI

It is further ordered That respondent, Blenheim Expositions, Inc., its successors and assigns shall notify the Commission at least thirty (30) days prior to any proposed change in said corporation such as a dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations under this Order.

VII

It is further ordered That this order will terminate twenty years from the date of its issuance, or twenty years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a compliant will not affect the duration of:

A. Any paragraph in this order that terminates in less than twenty years;

B. This order's application to any respondent that is not named as a defendant in such compliant; and

C. This order if such compliant is filed after the order has terminated pursuant to this paragraph.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this paragraph as though the compliant was never filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

VIII

It is further ordered That respondent, Blenheim Expositions, Inc., shall, within sixty (60) days after service of this Order upon it, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Blenheim Expositions, Inc. (''Blenheim'').

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns claims made by Blenheim in its advertising and

promotional materials for franchise shows.

The Commission's complaint in this matter charges Blenheim with engaging in unfair or deceptive practices in connection with the advertising of its franchise shows. According to the complaint, Blenheim falsely represented that it had a reasonable basis for claims that franchise owners earn an average income and/or average pre-tax income of more than $124,000, and that franchise owners earn an average pre-tax income and/or average pre-tax profit of $124,290.

The complaint also alleges that Blenheim falsely represented that it had a reasonable basis for claims that a prospective franchise owner's chances of success are 94%, and that franchise owners enjoy a 94% success rate.

Finally, the complaint alleges that Blenheim falsely represented that the above representations were proved by a Gallup poll of franchise owners conducted in 1991.

The consent order contains provisions designed to remedy the violations charged and to prevent Blenheim from engaging in similar deceptive and unfair acts and practices in the future.

Part I of the order prohibits Blenheim from misrepresenting the existence, purpose, sample, contents, validity, results, conclusions or interpretations of any survey, poll, test, report or study.

Part II of the order prohibits Blenheim from making any claims about the sales, income, or profits that current or prospective franchise owners have earned or can or will earn, or the chances of success or success rates that franchise owners have enjoyed or can or will enjoy, unless, prior to making such claims, Blenheim has competent and reliable evidence to substantiate the claims, which when appropriate must be competent and reliable scientific evidence.

Part III of the order requires Blenheim, for a period of five years after the date of entry of the order, to distribute at each franchise show it promotes, a brochure entitled, ''A Consumer Guide to Buying A Franchise,'' provided to Blenheim by the Commission. Under this requirement, Blenheim must reproduce the brochure in a format substantially similar to the original format as provided by the Commission; is responsible for the printing costs of the brochure; and must distribute copies of the brochure to at least 500 persons attending each such show, or to each person attending such show if the total number of such persons is fewer than 500. Blenheim may revise the text of the brochure or substitute a similar document only after submitting said revision or substitution to staff of the Commission and receiving written approval thereof.

Part IV of the order requires Blenheim to maintain copies of all advertisements setting forth any representation covered by the order; all materials relied upon in making any representation covered by the order; all materials in Blenheim's possession or control that contradict such representation or the basis upon which Blenheim relied for it; and any other materials that demonstrate full compliance with the order.

Part V of the order requires Blenheim to distribute copies of the order to each of its operating divisions and to each of its various officers, agents and representatives.

Part VI of the order requires Blenheim to notify the Commission of any changes in corporate structure that might affect compliance with the order.

Part VII of the order terminates the order twenty years from the date of its issuance, or twenty years from the date a complaint is filed in federal court alleging any violation of the order, whichever comes later.

Part VIII of the order requires Blenheim to file with the Commission one or more reports detailing compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order, or to modify any of their terms.

Donald S. Clark,

Secretary.

[FR Doc. 95–25295 Filed 10–11–95; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Community Services

Reallotment of Funds for FY 1994 Low Income Home Energy Assistance Program (LIHEAP)

AGENCY: Office of Community Services, Administration for Children and Families, (ACF), DHHS.

ACTION: Notice of determination concerning funds available for reallotment.

SUMMARY: In accordance with section 2607(b)(1) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 8621 et seq.), as amended, a notice was published in the Federal Register on August 9, 1995 announcing the Secretary's preliminary determination that $81,829 in FY 1994 Low Income Home Energy Assistance Program (LIHEAP) funds may be available for reallotment to other LIHEAP grantees. After further evaluation, the Secretary has determined that no funds from FY 1994 will be reallotted because it was not administratively feasible to do so.

FOR FURTHER INFORMATION CONTACT:

Janet M. Fox, Director, Division of Energy Assistance, Office of Community Services, 370 L'Enfant Promenade, SW., Washington, DC 20447; telephone (202) 401–9351.

Dated: October 4, 1995.

Donald Sykes,

Director, Office of Community Services.

[FR Doc. 95–25237 Filed 10–11–95; 8:45 am]

BILLING CODE 4184–01–M

Public Health Service

Food and Drug Administration; Privacy Act of 1974; New System of Records

AGENCY: Public Health Service, HHS.

ACTION: Notification of a new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing a notice of a proposal to establish a new system of records, 09–10–0019, ''Mammography Quality Standards Act (MQSA) Training Records, HHS/FDA/CDRH.'' The purpose of the system is to provide the Food and Drug Administration (FDA) with information about the training and certification of inspectors of mammography facilities. We are also proposing routine uses for this new system.

DATES: PHS invites interested parties to submit comments on the proposed internal and routine uses on or before November 21, 1995. PHS has sent a report of a New System to the Congress and to the Office of Management and Budget (OMB) on August 31, 1995. This system of records will be effective 40 days from the date submitted to OMB unless PHS receives comments on the routine uses which would result in a contrary determination.

ADDRESSES: Please submit comments to: FDA Privacy Act Coordinator (HFI–30), Food and Drug Administration, 5600 Fishers Lane, Room 12A–30, Rockville, MD 20857, (301) 443–1813.

Comments received will be available for inspection at this same address from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Director, Division of Mammography Quality and Radiation Programs (HFZ–240), Office of Health and Industry Programs, Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Drive, Rockville, MD 20850, (301) 594–3332.

The numbers listed above are not toll free.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration proposes to establish a New System of Records: 09–10–0019, ''Mammography Quality Standards Act (MQSA) Training Records, HHS/FDA/CDRH.'' This system of records will be used to provide FDA with information about the training, certification, and recertification of MQSA inspectors for the purpose of implementing the Mammography Quality Standards Act of 1992.

The system will be comprised of records that contain the names, dates of birth, education, professional experience, employment addresses, dates of mammography training, test scores, and an analysis of those scores, dates of certification of the inspectors, dates of renewal or withdrawal of certification, and evaluations of the inspectors' field performances (records of complaints received and how the complaints were resolved.) The amount of information recorded on each individual will be only that which is necessary to accomplish the purpose of the system. Records must be retrieved by individual name for effective monitoring of training, certification, recertification, and withdrawal of certification. Each record is established from a one-page data sheet which is completed by each student. Records of test scores, dates of renewal or withdrawal of certification, and an evaluation of inspector's field performance are added as the information becomes available.

The records in this system will be maintained in a secure manner compatible with their content and use. FDA staff will be required to adhere to the provisions of the Privacy Act and the HHS Privacy Act Regulations. Only authorized users whose official duties require the use of such information will have regular access to the records in this system. Authorized users are FDA employees and contractors responsible for training the individuals who will inspect mammography facilities, and personnel in the Division of Mammography Quality and Radiation Programs (DMQRP) who will compile and analyze the test and personal data of the students.

All records (such as diskettes, computer listings, or documents) are kept in a secured area, locked rooms, and locked building. The facility has 24-hour guard service, and access to the building is further controlled by an operational card key system. Access to individual offices is controlled by simplex locks. Manual and computerized records will be maintained in accordance with the standards of Chapter 45–13 of the HHS General Administration Manual, ''Safeguarding Records Contained in Systems of Records,'' supplementary Chapter PHS hf: 45–13 of the Department's General Administration Manual, and the Department's Automated Information Systems Security Handbook.

Users will receive regular training in information systems security for this application and in accordance with the Privacy Act. Users will be required to sign an agreement indicating their cooperation with FDA systems security and Privacy Act policies.

Data stored in computers will be accessed through the use of regularly expiring passwords and individual IDS known only to authorized users. All users will be assigned specific levels of database control based on their needs and authority. All uses of valid IDS and passwords will be monitored. Upon job change, the user's authorization will be reviewed and updated as necessary. All changes to data, as well as the time of change and the user's ID, will be captured in a file as part of the database design. The system's intrusion alarms, which list all logins and their source, will be monitored daily by the Information Systems Security Officer. All systems in support of this database are under the control of CDRH and meet the same security standards.

The routine uses proposed for this system are compatible with the stated purposes of the system. The first routine use proposed for this system, permitting disclosure to a congressional office, allows subject individuals to obtain assistance from their representatives in Congress, should they so desire. Such disclosure would be made only pursuant to a request of the individual. The second routine use allows disclosure to the Department of Justice or a court in the event of litigation. The third routine use allows disclosure to be made to the individual's supervisor since MQSA inspections will be a significant part of many inspectors' jobs; therefore, performance in the training courses is an important element of information to help the supervisor determine employee assignments as well as the level of supervision needed. The fourth routine use allows disclosure to be made to contractors for the purpose of processing or refining records in the system.

The following notice is written in the present, rather than future tense, in order to avoid the unnecessary expenditure of public funds to republish the notice after the system has become effective.

Dated: October 2, 1995.

Ellen Wormser,

Director, Office of Organization and Management Systems.

09–10–0019

SYSTEM NAME:

Mammography Quality Standards Act (MQSA) Training Records, HHS/FDA/CDRH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Mammography Quality and Radiation Programs (HFZ–240), Center for Devices and Radiological Health, 1350 Piccard Drive, Rockville, Maryland 20850. A current list of contractor sites is available by writing to the system manager, indicated below, at this address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who receive training for the purpose of implementing the Mammography Quality Standards Act of 1992; individuals who successfully complete the training will become certified to conduct inspections and audits of mammography facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name; date of birth; education; professional experience; employment address; dates of mammography training; participant's test scores, class grades, and an analysis of those scores; date of certification of the inspector; dates of renewal or withdrawal of certification; and an evaluation of the inspector's field performance (records of complaints received and how the complaints were resolved).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 102–539, the Mammography Quality Standards Act (MQSA) of 1992 (42 U.S.C. 263b).

PURPOSE:

To provide the Food and Drug Administration (FDA) with information about the training, certification, and recertification of MQSA inspectors for the purpose of implementing the

Mammography Quality Standards Act of 1992.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual, in response to an inquiry from the congressional office made at the request of that individual.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when

(a) HHS, or any component thereof; or

(b) Any HHS employee in his or her official capacity; or

(c) Any HHS employee in his or her official capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components,

is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the court or other tribunal, is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

3. Disclosure may be made with the individual's supervisor since MQSA inspections will be a significant part of many inspectors' jobs; therefore, performance in the training courses is an important element of information to help the supervisor determine employee assignments as well as the level of supervision needed.

4. Disclosure may be made to contractors for the purpose of collecting, compiling, aggregating, analyzing, or refining records in the system. Contractors will be required to maintain Privacy Act safeguards with respect to such records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data are maintained in hard copy files and on computer disks, hard drives, and file servers.

RETRIEVABILITY:

Indexed by name, state, specific courses, training dates, grades, date of certification, and date of withdrawal of certification.

SAFEGUARDS:

1. *Authorized users:* Personnel of the Division of Mammography Quality Reporting Program who are engaged in training the individuals who inspect mammography facilities, and personnel in the Division who compile and analyze the test and personal data of the students.

2. *Physical safeguards:* All records (such as disketts, computer listings, or documents) are kept in a secured area, locked rooms, and locked building.

The facility has 24-hour guard service, and access to the building is further controlled by an operational card key system. Access to the computer room is limited to a subset of persons with general access to the building. Access to individual offices is controlled by simplex locks. The building has smoke/fire detectors; the computer room has additional smoke/fire detectors plus water, temperature, and humidity sensors. The computers room has an uninterruptible power supply and a power conditioning system.

3. *Procedural safeguards:* End users and system professionals continue to receive regular training in information systems security and have signed an agreement indicating their cooperation with FDA policies. Users are further instructed on system security during training sessions for this application and in accordance with the Privacy Act. Users of personal information in the performance of their duties have been instructed to protect personal information from public view and from unauthorized personnel.

All reports containing confidential data are marked ''confidential'' and placed in the developer's or system manager's mail slot, which is located in an access-controlled room. CDRH SOP requires that all reports containing confidential information be shredded before disposal.

4. *Technical safeguards:* All users have individual IDS and regularly expiring passwords at least 6 characters long. All users are assigned specific levels of database control based on their needs and authority. All users of valid IDs and passwords will be monitored. Upon job change, the user's authorization is reviewed and updated as necessary.

All changes to data, as well as the time of change and the operator's ID are captured in a file as part of the database design. All data entered online is edit checked.

The system's intrusion alarms, which list all logins and their source, are monitored daily by the information Systems Security Officer. In addition, CDRH maintains commercial auditing software that permits logging of keystrokes by individual accounts.

CDRH maintains three audit trails for this system:

1. System-wide intrusion alarms and file access notices

2. Application-dependent logging of all data transactions

3. Commercial software that permits capturing all keystrokes from suspicious accounts and terminals.

All systems in support of this database are under the control of CDRH and meet the same security standards as the application.

5. *Implementation guidelines:* Safeguards are established in accordance with Chapter 45–13 and PHS hf:45–13 of the Department's General Administration Manual and the Department's Automated Information Systems Security Handbook.

RETENTION AND DISPOSAL:

Records are retained for five years after the certified MQSA Inspector leaves government service. At the end of five years, in individual's paper records are shredded and automated records are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Mammography Quality and Radiation Programs (HFZ–240), Center for Devices and Radiological Health, 1350 Piccard Drive, Rockville, Maryland 20850.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about him or her upon written request, with notarized signature if request is made by mail, or with identification if request is made in person, directed to:

FDA Privacy Act Coordinator (HFI–30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

RECORD ACCESS PROCEDURES:

Same as notification procedure. Requests should also reasonably specify the record contents being sought. You may also request an accounting of disclosures that have been made of your record, if any.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedure above and reasonably identify the record, specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained and training records pertaining to that individual. Information about certification renewal or withdrawal is generated in-house by the Division of Mammography Quality and Radiation Programs. Sources of information about field performance could include the inspector's supervisor, as well as any investigation of an inspector's performance as a result of complaints by a mammography facility.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 95–25310 Filed 10–11–95; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistance Secretary for Policy Development and Research

[Docket No. FR–3917–N–24]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due:* December 11, 1995.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 8226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Ruth Alahydoian at 202–708–0574 (this is not a toll-free number) for copies of the proposed data collection instruments and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Evaluation of the HOME Program, Round Three Data Collection.

Description of the need for the information and proposed use: The information collected is part of an evaluation that will help the Department assess the outcomes created by the HOME Investment Partnerships Program. Interviews with program administrators, project owners, and the homeowners and renters who are the beneficiaries of the program will be used to determine program costs, benefits, and overall program implementation. Evaluation results will be used by program designers and regulators at HUD and elsewhere interested in improving the effectiveness of the program, and by program administrators in State and local governments.

In-person interviews will be conducted with a sample of 40 local program administrators. As this is the third round of data collection for this evaluation, program administration information will be updated from previous interviews. The administrators will be asked about specific projects and programs they have funded with HOME funds. In addition, program administrators for every State will be interviewed by telephone. These interviews will also ask about program administration, but will not go into details on specific projects.

To supplement information gathered from files on-site at the 40 local government offices, interviews will be conducted with project developers, who may be for-profit or non-profit organizations. The purpose of this data collection effort is to estimate the costs of projects funded by HOME.

To estimate the benefits associated with the HOME program, telephone interviews will be conducted with a sample of 300 renters in HOME-funded rental projects, 200 homebuyers from HOME-funded homeownership projects, 150 homeowners from HOME-funded owner-occupied rehabilitation projects, and 150 renters receiving rental assistance through HOME.

Members of affected public: Individuals and households, businesses, not-for-profit institutions, and State and local governments will be interviewed as part of this data collection effort.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Interview respondents	Number of respondents	Responses per respondent	Minutes per respondent	Total burden hours
Local Program Officials	40	1	120	80
State Program Officials	50	1	120	100
Property Owners (For-profits and non-profits)	300	1	75	375
Residents (Owners and Renters)	800	1	15	200

Status of the proposed information collection: Awaiting OMB approval.

Authority: Sec. 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 2, 1995.

Michael A. Stegman,

Assistant Secretary for Policy Development and Research.

[FR Doc. 95–25254 Filed 10–11–95; 8:45 am]

BILLING CODE 4210–62–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT 807378

Applicant: Wildlife Conservation Society, Bronx, NY.

The applicant requests a permit to import one female captive-hatched black-necked crane (*Gurs nigricollis*) from VogelPark, Walsrode, Germany for the purpose of enhancement of the species through captive breeding.

PRT–807387

Applicant: Melinda Carter, Univ. of Chicago, Chicago, IL.

The applicant requests a permit to import bone samples and hair of chimpanzee (*Pan troglodytes*) salvaged from the Kibale Forest National Park, Uganda for the purpose of enhancement of the species through scientific research.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: October 6, 1995.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 95–25242 Filed 10–11–95; 8:45 am]

BILLING CODE 4310–55–P

Notice of Meeting

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath River Basin Fisheries Task Force, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*). The meeting is open to the public.

DATES: The Klamath River Basin Fisheries Task Force will meet from 8 a.m. to 6 p.m. on Thursday, October 26, 1995, and from 8 a.m. to 12:30 p.m. on Friday, October 27, 1995.

PLACE: The meeting will be held at the Brookings Inn, Highway 101, Brookings, Oregon 97415.

FOR FURTHER INFORMATION CONTACT:

Dr. Ronald A. Iverson, Project Leader, U.S. Fish and Wildlife Service, P.O. Box 1006 (1215 South Main), Yreka, California 96097–1006, telephone (916) 842–5763.

SUPPLEMENTARY INFORMATION: The principal agenda items at this meeting will be a decision on elements of an Instream flow study for the Klamath River Basin; a decision on adoption of a draft Upper Basin Amendment to the Long Range Plan for the Klamath River Basin Conservation Area Fisheries Restoration (KR) Program; a review of and direction for the KR Program evaluation; a decision on revision of Request for KR Proposals and proposal ranking procedures; the cooperative role of the National Biological Service with the Task Force; and the nomination and selection of private landowners for recognition in restoration efforts in the Klamath River Basin.

For background information on the Klamath River Basin Fisheries Task Force, please refer to the notice of their initial meeting that appeared in the Federal Register on July 8, 1987 (52 FR 25639).

Dated: October 2, 1995.

Thomas Dwyer,

Acting Regional Director.

[FR Doc. 95–25311 Filed 10–11–95; 8:45 am]

BILLING CODE 4310–55–M

Geological Survey

Federal Geographic Data Committee (FGDC); Public Meeting of the FGDC Facilities Working Group

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice is to invite public participation in a meeting of the FGDC Facilities Working Group. The major topic for this meeting is the development of a standard for Unique Facilities Identification Codes.

TIME AND PLACE: October 31, 1995, from 9:00 a.m. until 12:00 noon. The meeting will be held at Headquarters U.S. Army Corps of Engineers, in Room 4222 of the Pulaski Building, 20 Massachusetts Avenue, NW, Washington, DC. The Pulaski building is located just a few blocks west of Union Station.

FOR FURTHER INFORMATION CONTACT:

Jennifer Fox, FGDC Secretariat, U.S. Geological Survey, 590 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092; Telephone (703) 648–5514; facsimile (703) 648–5755; Internet ''gdc@usgs.gov''.

SUPPLEMENTARY INFORMATION: The FGDC is a committee of Federal Agencies engaged in geospatial activities. The FGDC Facilities Working Group specifically focuses on geospatial data issues related to facilities and facility management. A facility is an entity with location, deliberately established as a site for designated activities. A facility database might describe a factory, a military base, a college, a hospital, a power plant, a fishery, a national park, an office building, a space command center, or a prison. The database for a complex facility may describe multiple functions or missions, multiple buildings, or even a county, town, or city. The objectives of the Working Group are to: Promote standards of accuracy and currentness in facilities data that is financed in whole or in part by Federal funds; exchange information on technological improvements for collecting facilities data; encourage the Federal and non-Federal communities to identify and adopt standards and specifications for facilities data; and promote the sharing of facilities data among Federal and non-Federal organizations.

Dated: October 5, 1995.

Richard E. Witmer,

Acting Chief, National Mapping Division.

[FR Doc. 95–25283 Filed 10–11–95; 8:45 am]

BILLING CODE 4310–31–M

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.9(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the United Tribe of Shawnee Indians, P.O. Box 505, De Soto, Kansas 66018, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs (BIA) on July 6, 1995, and was signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under Section 83.9(a) (formerly 54.8(d)) of the Federal regulations, interested parties may submit factual and/or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the BIA's files. Such submissions will be provided to the petitioner upon receipt by the BIA. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petition may be examined, by appointment, in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, Room 1362–MIB, 1849 C Street, N.W., Washington, D.C. 20240, Phone: (202) 208–3592.

Dated: September 26, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–25200 Filed 10–11–95; 8:45 am]

BILLING CODE 4310–02–P

Bureau of Land Management

[WO300–1020–00–241A]

Information Collection Submitted to the Office of Management and Budget for Review under Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau's Clearance Officer and to the Office of Management and Budget, Paperwork Reduction Project (1004–0005), Washington, DC 20503, telephone (202) 395–7340.

Title: Grazing Application-Grazing Schedule, 43 CFR 4130.1.

OMB Approval Number: 1004–0005.

Abstract: This form is used by permittees to apply for annual authorization to graze livestock on the Public lands.

Bureau Form Number: 4130–1.

Frequency: On occasion.

Description of Respondents: Applicants requesting authorizations to graze livestock on the public lands.

Estimated Completion Time: 20 minutes.

Annual Responses: 6,000.

Annual Burden Hours: 2,000.

BLM Clearance Officer (Alternate): Wendy Spencer, (303) 236–6642.

Dated: October 3, 1995.

W. Hord Tipton,

Assistant Director, Resource Use and Protection.

[FR Doc. 95–25210 Filed 10–11–95; 8:45 am]

BILLING CODE 4310–84–M

[CO–933–96–1320–01; COC 54608]

Notice of Coal Lease Re-Offering by Sealed Bid; COC 54608

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of competitive coal lease sale.

SUMMARY: Bureau of Land Management, Colorado State Office, Lakewood, Colorado, hereby gives notice that certain coal resources in the lands hereinafter described in Routt County, Colorado, will be re-offered for competitive lease by sealed bid in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.). On August 18, 1995, these resources were re-offered for competitive lease by sealed bid to the highest qualified bidder provided that the high bid met the fair market value of the coal resources as determined by the authorized officer after the sale. Cyprus Western Coal Company was the only bidder. The bid did not meet the fair market value established for this tract. Therefore, the bid was rejected and the tract is being re-offered.

DATES: The lease sale will be held at 11 a.m., Thursday, November 16, 1995. Sealed bids must be submitted no later than 10 a.m., Thursday, November 16, 1995.

ADDRESSES: The lease sale will be held in the Conference Room, Fourth Floor, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado. Sealed bids must be submitted to the Cashier, First Floor, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215.

FOR FURTHER INFORMATION CONTACT: Karen Purvis at (303) 239–3795.

SUPPLEMENTARY INFORMATION: The tract will be leased to the qualified bidder submitting the highest offer, provided that the high bid meets the fair market value determination of the coal resource. The minimum bid for this tract is $100 per acre or fraction thereof. No bid less than $100 per acre or fraction thereof will be considered. The minimum bid is not intended to represent fair market value.

Sealed bids received after the time specified above will not be considered.

In the event identical high sealed bids are received, the tying high bidders will be requested to submit follow-up bids until a high bid is received. All tie-breaking sealed bids must be submitted within 15 minutes following the Sale Official's announcement at the sale that identical high bids have been received.

Fair market value will be determined by the authorized officer after the sale.

Coal Offered

The coal resource to be offered is limited to coal recoverable by underground mining methods in the Wadge seam on the Twentymile Tract in the following lands:

Sixth Principal Meridian

T. 5 N., R. 86 W.,
Sec. 21, N½, and SE¼;
Sec. 22, E½E½, and W½;
Sec. 23, all;
Sec. 26, N½, and N½SW¼;
Sec. 27, W½;
Sec. 28, NE¼, and E½NW¼;
Sec. 33, NE¼NE¼,

The land described contains 2,600 acres, more or less.

Total recoverable reserves are estimated to be 24,300,000 tons. The Wadge seam underground minable coal is ranked as high volatile C bituminous coal. The estimated coal quality for the Wadge seam on an as-received basis is as follows:

Btu—11,745 Btu/lb.
Moisture—7.76%

Sulfur Content—0.48%
Ash Content—8.80%

Rental and Royalty

The lease issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre or fraction thereof and a royalty payable to the United States of 8 percent of the value of coal mined by underground methods. The value of the coal will be determined in accordance with 30 CFR part 206.

Notice of Availability

Bidding instruction for the offered tract are included in the Detailed Statement of Coal Lease Sale. Copies of the statement and the proposed coal lease are available upon request in person or by mail from the Colorado State Office at the address given above. The case file is available for inspection in the Public Room, Colorado State Office, during normal business hours at the address given above.

Dated: October 5, 1995.

Karen A. Purvis,

Solid Minerals Team Resource Services.

[FR Doc. 95–25259 Filed 10–11–95; 8:45 am]

BILLING CODE 4310–JB–M

[AZ-050–05–1210–00; 8365]

Arizona: Establishment of Supplementary Rules for the Parker Strip Recreation Area, Swansea Townsite, Aubrey Hills, and Desert Bighorn Sheep Lambing Grounds

AGENCY: Bureau of Land Management, Interior.

ACTION: Publication of supplementary rules for the Parker Strip Recreation Area, Swansea Townsite, Aubrey Hills, and Desert Bighorn Sheep Lambing Grounds.

SUMMARY: To implement decisions of the Yuma Resource Management Plan and the Parker Strip Recreation Management Plan, to protect valuable and fragile natural and cultural resources, and to provide for public safety and enjoyment, the following supplementary rules are established for the lands described.

EFFECTIVE DATE: October 12, 1995.

FOR FURTHER INFORMATION CONTACT: Leslie Allert, Outdoor Recreation Planner or Mark Harris, Ranger, Havasu Resource Area, 3189 Sweetwater Avenue, Lake Havasu City, Arizona 86406, telephone (520) 855–8017.

SUPPLEMENTARY INFORMATION: To protect valuable and fragile natural and cultural resources and to provide for public enjoyment the following supplementary rules are established for the areas described.

Parker Strip Recreation Area

The following rules apply within the Parker Strip Recreation Area which is described as the public land contained within the following described lands.

Gila and Salt River Meridian, Arizona

T. 11 N., R. 18 W.,
  Sec 15, 16, 22, 28, & 34.
T. 10 N., R. 18 W.,
  Sec 5, W½ NW¼, SW¼;
  Sec 6, all;
  Sec 7, Lots 1–4, NE¼, N½ SE¼, SW¼ SE¼;
  Sec 18, Lot 1, NW¼ NE¼.
T. 10 N., R. 19 W.,
Sec 12;
  Sec 13 N½ N½, N½ SW¼ NE¼, NW¼ SE¼ NE¼, N½SE¼NW¼, SW¼NW¼, W½SW¼;
  Sec 14, 22, & 23;
  Sec 24 W½ NW¼.

San Bernardino Meridian, California

T. 2 N., R. 27 E., all.
T. 2 N., R. 26 E.,
  Sec 1, 11–15, 21–27, & 34–36.
T. 1 N., R. 26 E.,
Sec 2, 3, 10, & 11.

Vehicles

Vehicles shall not be parked in violation of posted restrictions, or in such a manner as to obstruct or impede normal or emergency traffic movement or the parking of other vehicles, create a safety hazard, or endanger any person, property or feature. Vehicles so parked are subject to removal and impoundment at the owner's expense.

Taking any vehicle through, around, or beyond a restrictive sign, recognizable barricade, fence, or traffic control barrier is prohibited.

Vehicles may only be operated within concessions, on paved roads, or on routes which are signed as open, unless in a designated OHV open area.

Use of off-highway vehicles is prohibited within all developed recreation facilities on public lands except the off-highway vehicle areas. Golf carts and similar vehicles may be operated within concessions at the discretion of the concession management.

Camping

Camping within ½ (one-half) mile of Parker Dam Road is restricted to designated camping facilities.

Sanitation

Public land users shall maintain their sites free of trash and litter during the period of occupancy and shall remove all personal equipment, trash, and litter upon departure.

Animals

Allowing animals to be physically uncontrolled or unattended is prohibited. Such animals are subject to immediate impoundment and removal at the owner's expense.

Persons bringing or allowing pets in designated developed recreation areas shall be responsible for proper removal and disposal, in sanitary facilities, of any waste produced by these animals.

Pets are not permitted in Empire Landing Campground on the following holiday weekends: Memorial Day, Fourth of July, and Labor Day. The weekend is defined as the Saturday and Sunday closest to the actual holiday and the day on which the holiday is celebrated.

Restrictions

Quiet shall be maintained in all developed recreation sites between the hours of 10 pm and 6 am.

Any act or conduct by any person which interferes with, impedes, or disrupts the use of public lands or impairs the safety of another person is prohibited. Individuals who are boisterous, rowdy, disorderly, or otherwise disturb the peace, are considered to interfere with the use of public land by others. In addition to any criminal penalties all persons in violation of this rule may be required to leave.

The Area Manager may establish further local emergency restrictions on the use of these public lands. Using public lands in a manner which is contrary to a posted restriction is prohibited.

Weapon Use

Discharge or use of firearms, other weapons, or fireworks is prohibited in California within one mile of Parker Dam Road, and in Arizona within the Parker Strip Recreation Area unless otherwise posted.

Wood Collection

Wood Collection is prohibited within the Parker Strip Recreation Area.

Swansea Townsite

The following rules apply within the Swansea Townsite area which is described as:

Gila and Salt River Meridian, Arizona

T. 10 N., R. 15 W.,
  Sec. 28, W½ SW¼;
  Sec. 29, S½;
  Sec. 32, N½;
  Sec. 33, W½ NW¼.

Vehicles

Taking any vehicle through, around, or beyond a restrictive sign,

recognizable barricade, fence, or traffic control barrier is prohibited.

Operation of a vehicle in a wash, off a roadway, or on an unsigned historic roadway is prohibited.

Camping

Camping is permitted only at designated sites. Camping stay is limited to 3 days in any 30-day period.

Wood Collection

No wood collection is permitted within the Townsite, including but not limited to dead and down wood, live plants, and lumber from historic structures.

Collection of Artifacts

No item may be collected or removed from the Townsite without the written permission of the Havasu Resource Area Manager. This includes but is not limited to old cans, nails, lumber, bricks, or glassware, whole or broken.

Safety

Climbing, leaning, sitting, or walking on the remains of the walled structures at Swansea inherently damages the structures, is unsafe, and is therefore prohibited.

No person shall enter into any fenced area, shaft, tunnel, or structure.

Fires

Fires are allowed only at the designated sites and must be located in the fire ring provided. Construction of new fire rings is prohibited.

Aubrey Hills Area

The Aubrey Hills Area is defined as that public land south of the Lake Havasu City limits, west of Highway 95, east of the Colorado River, and north of the Bill Williams River, not including the area of SARA Park.

No motorized vehicles are allowed off paved roads. This does not include authorized agency service vehicles for authorized rights-of-way or for ownership access to private land.

Desert Bighorn Sheep Lambing Grounds and Year Long Use Areas

The following rules apply to public lands during the period of January 1 through June 30 in any year in all bighorn sheep lambing grounds and year-long use areas whose boundaries are defined as follows.

Gila & Salt River Meridian, Arizona

North Mohave Mountains

T. 15 N., R. 20 W.,
Sec 4, 5, 8–10, 15, 16, 20–22, 28, & 29;
Sec 27 NW¼.

Crossman Peak

T. 14 N., R. 18 W.,
Sec 7 W½ W½;
Sec 17 SW¼;
Sec 18–20.
T. 15 N., R. 18 W.,
Sec 31 SW¼.
T. 14 N., R. 19 W.,
Sec 1 W½ W½;
Sec 2–4;
Sec 5 E½;
Sec 9–16.
T. 15 N., R. 19 W.,
Sec 28, 30, & 32–36.
T. 15 N., R. 20 W.,
Sec 25 NE¼.

Paloma Wash

T. 12 N., R. 17 W.,
Sec 17 S½ S½;
Sec 19 NE¼;
Sec 21 SW¼;
Sec 27 SW¼ SW¼;
Sec 33 N½ N½;
Sec 34 NW¼ NW¼.

Little Black Mountains

T. 11 N., R. 17 W.,
Sec 3, 10, 11, 14, 15, 22, 23, & 26;
Sec 12 W½, W½ SE¼;
Sec 13 W½, W½ E½;
Sec 21 E½;
Sec 25 W½;
Sec 27 NE¼.
T. 12 N., R. 17 W.,
Sec 34 SE¼;
Sec 35 SW¼ SW¼.

The North Mesa

T. 11 N., R. 17 W.,
Sec 19 SW¼;
Sec 28 SW¼;
Sec 29 S½;
Sec 30 all,
Sec 31 N½;
Sec 32 N½;
Sec 33 N½.
T. 11 N., R. 18 W.,
Sec 22 NE¼;
Sec 23–26;
Sec 27 E½ E½;
Sec 35 N½ N½;
Sec 36 N½, N½ SE¼.

No motorized vehicles are allowed off paved roads. This does not include authorized agency service vehicles for authorized rights-of-way or for ownership access to private land.

Authority: The authority for establishing supplementary rules is contained in Title 43 Subpart 8365, Section 1–6. These rules will be available in the Havasu Resource Area Office, which manages these lands. A violation of a supplementary rule is punishable as class A misdemeanor.

Dated: October 2, 1995.

Judith I. Reed,

District Manager.

[FR Doc. 95–25208 Filed 10–11–95; 8:45 am]

BILLING CODE 4310–32–P

National Park Service

Weir Farm National Historic Site, Wilton and Ridgefield, Connecticut; Final General Management Plan/ Environmental Impact Statement

In accordance with the National Environmental Policy Act 102(2)(C) of 1969, the National Park Service, U.S. Department of the Interior announces that a Final General Management Plan/ Environmental Impact Statement (FGMP/EIS) has been prepared on three alternatives considered for future management of Weir Farm National Historic Site.

This notice announces the availability of the FGMP/EIS to members of the public. Following a 30-day no-action period, a Record of Decision will be written documenting the range of alternatives considered and evaluated, the proposals selected to form the final plan, and the rationale for their selection.

Further inquiries about the FGMP/ EIS, and requests for copies should be directed to Superintendent, Weir Farm, 735 Nod Hill Road, Wilton, Connecticut 06897 or by calling (203) 834–1896.

Dated: October 5, 1995.

Chrysandra L. Walter,

Acting Field Director, Northeast Area.

[FR Doc. 95–25308 Filed 10–11–95; 8:45 am]

BILLING CODE 4310–70–P

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 30, 1995. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by October 27, 1995.

Carol D. Shull,

Keeper of the National Register.

GEORGIA

Fulton County

Cooledge, F. J., and Sons, Company—Hastings' Seed Company, 434 Marietta St., Atlanta, 95001229

MAINE

Penobscot County

Archeological Site No. 122–14 (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Millinocket vicinity, 95001201

Archeological Site No. 122–16 (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Millinocket vicinity, 95001200
Archeological Site No. 122–22 (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Millinocket vicinity, 95001233
Archeological Site No. 122–6 (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Millinocket vicinity, 95001199
Archeological Site No. 122–8 (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Millinocket vicinity, 95001232
Archeological Site No. 134–8 (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Millinocket vicinity, 95001216
Archeological Site No. 134–9 (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Millinocket vicinity, 95001217

Piscataquis County

Archeological Site No. 121–52B (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Ambajejus Camps vicinity, 95001213
Archeological Site No. 121–52a (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Ambajejus Camps vicinity, 95001212
Archeological Site No. 121–59 (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Stephensons Landing vicinity, 95001214
Archeological Site No. 121–71 (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Ambajejus Camps vicinity, 95001215
Archeological Site No. 122–4a (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Millinocket vicinity, 95001202
Archeological Site No. 142–12 (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Ripogenus vicinity, 95001221
Archeological Site No. 142–14 (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Ripogenus vicinity, 95001223
Archeological Site No. 142–5 (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Ripogenus vicinity, 95001218
Archeological Site No. 142–6 (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Ripogenus vicinity, 95001219
Archeological Site No. 142–8 (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Ripogenus vicinity, 95001220
Archeological Site No. 142–13 (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Ripogenus vicinity, 95001222
Archeological Site No. 143–12 (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Ripogenus vicinity, 95001209
Archeological Site No. 143–15 (Penebscot Headwater Lakes Prehistoric Site MP), Address Restricted, Ripogenus vicinity, 95001210
Archeological Site No. 143–16 (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Ripogenus vicinity, 95001211
Archeological Site No. 143–23 (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Chesuncook vicinity, 95001203
Archeological Site No. 143–5 (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Ripogenus vicinity, 95001208
Archeological Site No. 143–52 (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Chesuncook vicinity, 95001205
Archeological Site No. 143–53 (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Chesuncook vicinity, 95001206
Archeological Site No. 143–57 (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Chesuncook vicinity, 95001207
Archeological Site No. 143–79 (Penebscot Headwater Lakes Prehistoric Sites MPS), Address Restricted, Chesuncook vicinity, 95001204

MASSACHUSETTS

Berkshire County

Shaker Farm, Dublin Rd., Richmond, 95001198

MINNESOTA

Hennepin County

Shubert, Sam S., Theatre, 22 Seventh St., N, Minneapolis, 95001230

MISSISSIPPI

Coahoma County

Yazoo and Mississippi Valley Passenger Depot, Bounded by N. Edwards, Sharkey and Issaquena Aves., and the ICRR main track, Clarksdale, 95001194

Jones County

New Orleans and Northeastern Railroad Depot, Maple St., Laurel, 95001192

Lawrence County

New Orleans Great Northern Railroad Depot, Bounded by MS 84 and the former GM & O Railroad tracks, Monticello, 95001193

Madison County

Yazoo & Mississippi Valley Railroad Depot, Vernon St. between the Illinois Central Railroad track and Main St., Flora, 95001195

NEVADA

Storey County

McCarthy House, 50 S. I St., Virginia City, 95001231

[FR Doc. 95–25309 Filed 10–11–95; 8:45 am]
BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–725(F)]

Manganese Sulfate From the People's Republic of China; Commission Determination To Conduct a Portion of the Hearing In Camera

AGENCY: International Trade Commission.

ACTION: Closure of a portion of a Commission hearing to the public.

SUMMARY: Upon request of respondents in the above-captioned final investigations, the Commission has unanimously determined to conduct a portion of its hearing scheduled for October 3, 1995, *in camera.* See Commission rules 207.23(d), 201.13(m) and 201.35(b)(3) (19 CFR 207.23(d), 201.13(m) and 201.35(b)(3)). The remainder of the hearing will be open to the public. The Commission unanimously has determined that the seven-day advance notice of the change to a meeting was not possible. See Commission rule 201.35(a), (c)(1) (19 CFR 201.35(a), (c)(1)).

FOR FURTHER INFORMATION CONTACT: James M. Lyons, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, DC 20436, telephone 202–205–3094. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission believes that the respondents have justified the need for a closed session. A full discussion of competition in the industry and the domestic industry's financial condition can only occur if a portion of the hearing is held *in camera.* Because certain information is not publicly available, any discussion of issues relating to this information will necessitate disclosure of business proprietary information (BPI). Thus, such discussions can only occur if a portion of the hearing is held *in camera.* In making this decision, the Commission nevertheless reaffirms its belief that whenever possible its business should be conducted in public.

The hearing will include the usual public presentations by petitioners and by respondents, with questions from the Commission. In addition, the hearing will include an *in camera* session for a presentation that discusses BPI by respondents and for questions from the Commission relating to the BPI, followed by a similar *in camera*

presentation by petitioners. For any *in camera* session the room will be cleared of all persons except those who have been granted access to BPI under a Commission administrative protective order (APO) and are included on the Commission's APO service list in this investigation. See 19 CFR 201.35(b)(1), (2). In addition, to the extent petitioner's BPI will be discussed in the *in camera* session, personnel of the petitioning firm whose data will be discussed may also be granted access to the closed session while such data is discussed. The time for the parties' presentations and 3 rebuttals in the *in camera* session will be taken from their respective overall allotments for the hearing. All persons planning to attend the *in camera* portions of the hearing should be prepared to present proper identification.

Authority: The General Counsel has certified, pursuant to Commission Rule 201.39 (19 CFR 201.39) that, in her opinion, a portion of the Commission's hearing in *Manganese Sulfate from the People's Republic of China,* Inv. No. 731–TA–725 (Final) may be closed to the public to prevent the disclosure of BPI.

Issued: October 4, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–25270 Filed 10–11–95; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 337–TA–370]

Certain Salinomycin Biomass and Preparations Containing Same; Change of Commission Investigative Attorney

Notice is hereby given that, as of this date, Juan S. Cockburn, Esq. of the Office of Unfair Import Investigations is designated as the Commission investigative attorney in the above-cited investigation instead of Teresa M.B. Martinez, Esq. and Juan S. Cockburn, Esq.

The Secretary is requested to publish this Notice in the Federal Register.

Dated: October 2, 1995.

Lynn I. Levine,

Director, Office of Unfair Import Investigations, 500 E Street, SW., Washington, DC 20436.

[FR Doc. 95–25269 Filed 10–11–95; 8:45 am]

BILLING CODE 7020–02–P

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–167 (Sub-No. 1150X)]

Consolidated Rail Corporation—Discontinuance of Trackage Rights Exemption—in Vigo County, IN

Consolidated Rail Corporation (Conrail) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—Exempt Abandonments and Discontinuances of Trackage Rights to discontinue its trackage rights over 4.9 miles of rail line owned by CSX Transportation, Inc. (CSXT), known as the Otter Creek rail line. The trackage rights to be discontinued involve two zones: (1) Zone 1, between Haley (CSXT milepost LZA 176.5) and Dewey Junction (CSXT milepost LZA 173.8) in Terre Haute, IN; and (2) zone 2, between Dewey Junction (CSXT milepost LZA 173.8) and Otter Creek Junction (CSXT milepost LZA 171.6) near North Terre Haute, IN.

Conrail has certified with respect to the trackage rights involved here that: (1) No local traffic has moved over the line for at least 2 years; (2) no overhead traffic has moved over the line; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.[1]

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 11, 1995, unless stayed pending reconsideration. Petitions to stay must be filed by October 23, 1995. Petitions to reopen must be filed by November 1, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.[2]

A copy of any petition filed with the Commission should be sent to applicant's representative: John J. Paylor, Consolidated Rail Corporation, Two Commerce Square, 2001 Market Street, P.O. Box 41416, Philadelphia, PA 19101–1416.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio.*

Decided: October 5, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–25278 Filed 10–11–95; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–347 (Sub-No. 2X)]

Florida West Coast Railroad Company, Inc.—Abandonment Exemption—in Dixie and Gilchrist Counties, FL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903–04 the abandonment by Florida West Coast Railroad Company, Inc., of 17.275 miles of rail line in Dixie and Gilchrist Counties, FL, extending between milepost 796.7 at Cross City and milepost 806.127 at Wilcox, and between milepost 741.938 at Wilcox and milepost 734.09 at Trenton, subject to public use and standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on November 11, 1995. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by October 23, 1995; petitions to stay must be filed by October 27, 1995; and petitions to reopen must be filed by November 6, 1995.

ADDRESSES: Send pleadings referring to Docket No. AB–347 (Sub-No. 2X) to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue, N.W., Washington, DC 20423; and (2) David H. Anderson, 47 Sheple Lane, Groton, MA 01450.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610. [TDD for hearing impaired: (202) 927–5721.]

[1] No environmental or historical documentation is required here under 49 CFR 1105.6(b)(3).

[2] Because this is a discontinuance proceeding only, the routine provisions for trail use/rail banking or public use conditions provided for in abandonment proceedings are not appropriate here.

[1] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C. 2d 164 (1987).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC NEWS AND DATA, INC., Interstate Commerce Commission Building, 1201 Constitution Avenue, N.W., Room 2229, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services, (202) 927–5721.]

Decided: October 2, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,

Secretary.

[FR Doc. 95–25277 Filed 10–11–95; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–290 (Sub-No. 172X)]

Norfolk Southern Railway Company—Abandonment Exemption— in Granville and Vance Counties, NC

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission, under 49 U.S.C. 10505, exempts from the prior approval requirements of 49 U.S.C. 10903–04 the abandonment by Norfolk Southern Railway Company (NSR) of a 13-mile segment of its branch line extending between milepost I–1.0 at O & H Junction and milepost I–14.0 at Henderson, in Granville and Vance Counties, NC, subject to standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on November 11, 1995. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by October 23, 1995; petitions to stay must be filed by October 27, 1995; requests for a public use condition must be filed by November 1, 1995; and petitions to reopen must be filed by November 6, 1995.

ADDRESSES: Send pleadings referring to Docket No. AB–290 (Sub-No. 172X) to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue, N.W., Washington, DC 20423, and (2) Petitioner's representative: James R. Paschall, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510–2191.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC NEWS & DATA, INC., Interstate Commerce Commission Building, 1201 Constitution Avenue, N.W., Room 2229, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: September 28, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,

Secretary.

[FR Doc. 95–25274 Filed 10–11–95; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–441 (Sub-No. 1X)]

SWKR Operating Co., Inc.—Abandonment Exemption—in Cochise County, AZ

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903–04 the abandonment by SWKR Operating Co., Inc., of 17.26 miles of railroad lines in Cochise County, AZ, subject to standard labor protective conditions, environmental conditions, and an historic preservation condition. The lines proposed for abandonment consist of: (1) The Bisbee Branch between milepost 1085.0 at Bisbee Jct. and milepost 1090.6 at Bisbee; and (2) a segment of the Douglas Branch, between milepost N 1097.30 near Paul Spur and the end of the line at milepost N 1107.96, near Douglas, including a 1-mile line from milepost 1107 in Douglas to the international border with Mexico at Agua Prieta.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on November 11, 1995. Formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2)[1] must be filed by October 23, 1995. Petitions to stay must be filed by October 23, 1995, and petitions to reopen must be filed by November 1, 1995. Requests for a public use condition conforming to 49 CFR 1152.28(a)(2) must be filed by November 1, 1995.

ADDRESSES: Send pleadings referring to Docket No. AB–441 (Sub-No. 1X) to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue, N.W., Washington, DC 20423; and (2) Petitioner's representative: Fritz R. Kahn, Suite 750 West, 1100 New York Ave., N.W., Washington, DC 20005–3934.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC NEWS AND DATA, INC., Interstate Commerce Commission Building, 1201 Constitution Avenue, N.W., Room 2229, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: September 28, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,

Secretary.

[FR Doc. 95–25272 Filed 10–11–95; 8:45 am]

BILLING CODE 7035–01–P–M

[Finance Docket No. 32745]

Tuscola and Saginaw Bay Railway Company, Inc., Modified Certificate

On July 6, 1995, Tuscola and Saginaw Bay Railway Company, Inc., (TSBY) filed a notice for a modified certificate of public convenience and necessity under 49 CFR Part 1150, Subpart C, to operate 118.45 miles of rail line as follows: (1) A 93.2-mile portion of United States Railroad Administration (USRA) Line No. 454 extending between milepost 332.8 at Cadillac, MI, and milepost 332.8 at Petoskey, MI, including the Cadillac North yard and Cadillac Beltway and (2) a 25.25-mile portion of USRA Line No. 470 extending between milepost 0.0 at Walton Junction, MI, and milepost 25.25 at Traverse City, MI.

These rail lines are owned by the State of Michigan (Michigan). They were not included in the final system plan at the time the Consolidated Rail Corporation was formed, and as such,

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).*

[1] See *Exempt, of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

were authorized to be abandoned without further Commission approval pursuant to the Railroad Revitalization and Regulatory Reform Act of 1976.

The lines involved here are part of the Pennsylvania Railroad Company's former Grand Rapids & Indiana North line extending from Grand Rapids, (Comstock Park) to Mackinaw City, MI. Michigan Northern Railway Company operated the lines as Michigan's Designated Operator until 1984. See D–OP 8 *Certificate of Designated Operator, Michigan Northern Railway Company, Inc.*, D–OP 8 (USRA Line Nos. 454, 454a, 461, and 470–PC) (ICC served May 5, 1976). In 1984, Michigan purchased most of the Grand Rapids & Indiana North lines from the successor to the Penn Central Transportation Company. At that time, Michigan designated TSBY to operate the Reed City to Petoskey, MI, line segment. See *Certificate of Designated Operator Tuscola and Saginaw Bay Company Railway Company, Inc.*, D–OP 56 (USRA Line Nos. 454, 454a, and 470) (ICC served Nov. 23, 1984 and Jan. 7, 1984).

The Commission will serve a copy of this notice on the Association of American Railroads (Car Service Division), as agent for all railroads subscribing to the car-service and car-hire agreement, and on the American Short Line Railroad Association.

Decided: October 3, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–25276 Filed 10–11–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32744]

Tuscola and Saginaw Bay Railway Company, Inc. Modified Certificate

On July 6, 1995, Tuscola and Saginaw Bay Railway Company, Inc., (TSBY) filed a notice for a modified certificate of public convenience and necessity under 49 CFR Part 1150, Subpart C, to operate 123.7 miles of rail line as follows: (1) A 122.5-mile portion of United States Railroad Administration (USRA) Line No. 1301 extending between milepost 147.5 at Alma, MI, and milepost 270 at Thompsonville, MI; and (2) a 1.2-mile portion of USRA Line No. 1302 extending between milepost 270 at Thompsonville, MI, and milepost 271.2 west of Thompsonville, MI.

These rail lines are owned by the State of Michigan (Michigan). They were not included in the final system plan at the time the Consolidated Rail Corporation was formed, and as such, were authorized to be abandoned without further Commission approval pursuant to the Railroad Revitalization and Regulatory Reform Act of 1976.

The lines involved here are part of the northern segment of the former Ann Arbor line extending from Ann Arbor, MI, to Frankfort, MI. The Michigan Interstate Railway Company operated the line as Michigan's Designated Operator until 1982. See *Certificate of Designated Operator Michigan Interstate Railway Company*, D–OP 20 (USRA Line Nos. 445A, 1300 1301, 1302, and 1303–AA) (ICC served Sept. 30, 1977), and *Certificate of Designated Operator Michigan Interstate Railway Company*, D–OP 49 (USRA Line Nos. 445A, 1300, 1301, 1302, and 1303–AA) (ICC served July 28, 1982). At that time, Michigan terminated its Designated Operator agreement with Michigan Interstate Railway Company and designated Michigan Northern Railway Company to operate the line from Alma to Frankfort. See *Certificate of Designated Operator Michigan Northern Railway Company*, D–OP 52 (USRA Line Nos. 1300, and 1301–AA) (ICC served Jan. 20, 1983). Subsequently, in 1985 Michigan designated TSBY to replace Michigan Northern Railway Company as the Designated Operator to operate the involved line, *Certificate of Designated Operator-Tuscola and Saginaw Railway Company*, D–OP 55 (USRA Line Nos. 1301, 1302, and 1302). (ICC served Apr. 26, 1985).

The Commission will serve a copy of this notice on the Association of American Railroads (Car Service Division), as agent for all railroads subscribing to the car-service and car-hire agreement, and on the American Short Line Railroad Association.

Decided: October 3, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–25279 Filed 10–11–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32743]

Tuscola and Saginaw Bay Railway Company, Inc., Modified Certificate

On July 6, 1995, Tuscola and Saginaw Bay Railway Company, Inc., (TSBY) filed a notice for a modified certificate of public convenience and necessity under 49 CFR Part 1150, Subpart C, to operate 127.11 miles of rail line as follows: (1) A 58.5-mile portion of United States Railroad Administration (USRA) Line No. 1300, extending between milepost 47.5 at Ann Arbor, MI, and milepost 106 at Owosso, MI; (2) the 41.5-mile USRA Line No. 1301 extending between milepost 106 at Owosso, MI and milepost 147.5 at Alma, MI; and (3) a 27.11-mile portion of USRA Line No. 455a extending between milepost 64.19 at Owosso, Mi and milepost 91.30 at Swan Creek, MI.

These rail lines, except as noted below, are owned by the State of Michigan (Michigan). They were not included in the final system plan at the time the Consolidated Rail Corporation was formed, and as such, were authorized to be abandoned without further Commission approval pursuant to the Railroad Revitalization and Regulatory Reform Act of 1976.

These lines are part of northern segment of the former Ann Arbor line extending from Ann Arbor to Frankfort, MI. Michigan Interstate Railway Company operated the lines as Michigan's Designated Operator until 1982. See *Certificate of Designated Operator Michigan Interstate Railway Company*, D–OP 20, (USRA Line Nos. 1300, 1301, 1302, and 1303–AA) (ICC served Sept. 30, 1977) and Certificate of Designated Operator Michigan Interstate Railway Company, D–OP 49, (USRA Line Nos. 1300, 1301, 1302, and 1303–AA) (ICC served July 28, 1982). In 1982, Michigan terminated its Designated Operator agreement with Michigan Interstate Railway Company and designated TSBY to operate the portion of the Ann Arbor line extending from Ann Arbor, to Alma. See Certificate of Designated Operator Tuscola and Saginaw Bay Railway Company, D-OP 51 (USRA Line Nos. 445A, 1300, and 1301–AA (ICC served Nov. 2, 1982). Pursuant to that Designated Operator certificate, TSBY also assumed operation of about 20 miles of the former New York Central Railway line extending from a connection with the Ann Arbor at Owosso to West Charles (Swan Creek), MI, which is southwest of Saginaw, MI.

Because the 13.71-mile line segment of USRA Line 1300 extending between milepost 95.69 at Durand, MI, and milepost 109.4 at Owosso, is owned by the Central Michigan Railway Company, it is not eligible for inclusion in this modified certificate of public convenience and necessity.

The Commission will serve a copy of this notice on the Association of American Railroads (Car Service Division), as agent for all railroads subscribing to the car-service and car-hire agreement, and on the American Short Line Railroad Association.

Decided: October 3, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–25280 Filed 10–11–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32780]

Consolidated Rail Corporation—Trackage Rights Exemption— Norfolk and Western Railway Company

Norfolk and Western Railway Company (NW) has agreed to grant overhead and local trackage rights to Consolidated Rail Corporation (Conrail) as follows: (1) Overhead trackage rights between milepost 441.8± at Tolleston, IN, and the NW/Conrail property line at ''CP Mike'', milepost 319.2± at Ft. Wayne, IN, with the additional right to enter and exit the trackage at the connection with Conrail's Marion Branch, milepost 358.63± of NW's line, and the right to enter and exit the Warsaw Passing Track (ZTS 211), milepost 358.63±, and Conrail's West Industrial Track (Donnelley Siding, ZTS 208/210), milepost 359.68±, for the purpose of setting off and picking up cars moving to and from customers located within the local trackage rights area at Warsaw, IN; and (2) local trackage rights between milepost 356.5± and milepost 361.7± at Warsaw, with the right to enter and exit the trackage at the connection with Conrail's Marion Branch, milepost 358.63± of NW's line, at switch connection to Conrail's Engine Storage Siding, milepost 358.26±, and at those switches necessary to access Conrail's tracks and to serve Conrail's customers between milepost 358.7± and milepost 361.7±, at Warsaw (Conrail shall have the right to use the trackage between these points—including incidental headroom and tailroom—for the purpose of switching and moving cars to and from Conrail's tracks and Conrail's customers located between milepost 358.7± and milepost 361.7± and for the storage of equipment on the Warsaw Passing Track (ZTS 211) and Engine Storage Track (ZTS 817)).[1] The involved trackage totals approximately 125.78 miles in length.

The proposed transaction will allow Conrail to continue to serve its customers located within the local trackage area and to use the trackage for overhead movements. The trackage rights will take effect on such date as the parties may agree in writing, but not sooner than September 29, 1995.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: John J. Paylor, 2001 Market St., 16A, P.O. Box 41416, Philadelphia, PA 19101–1416.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

Decided: October 6, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–25453 Filed 10–11–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to Clean Air Act

In accordance with Department of Justice regulations 28 C.F.R. 50.7 notice is hereby given that on October 2, 1995 a proposed Consent Decree in *United States* v. *Eljer Manufacturing, Inc.*, Case No. 4:95CV2103, was lodged in the United States District Court for the Northern District of Ohio. The Complaint filed by the United States alleges various violations of the Clean Water Act (''the Act''), 33 U.S.C. 1319(b), including discharges without an appropriate permit issued pursuant to Section 402 of the Act, 33 U.S.C. 1342. The Consent Decree provides that Eljer shall not discharge pollutants from its facility to any stream, tributary, body of water, or wetland area on Eljer's property or to any navigable waters not located on Defendant's property except in compliance with a permit issued pursuant to Section 402 of the Act, 33 U.S.C. 1342. Eljer shall also comply with all applicable industrial user regulations found within 40 C.F.R. § 403.12, and all requirements and limitations contained in its City of Salem industrial user wastewater discharge permit.

Eljer is also obligated under the proposed decree to undertake and complete a Sediment Remediation Plan and Post Sediment Remediation Verification Plan (''SRP''). The SRP provides for the removal of certain sediments in the tributary of Stone Mill Run on Eljer's property at two former discharge outfall locations and continuing downstream from such outfalls to the tributary's intersection with Stone Mill Run, to the extent necessary to achieve a cleanup level of 150 mg/kg for lead in sediments. The Consent Decree also requires Eljer Manufacturing, Inc. to pay a civil penalty of $300,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *Eljer Manufacturing, Inc.*, D.J. Ref. No. 90–5–1–1–3815.

The proposed Consent Decree may be examined at any of the following offices: (1) The United States Attorney for the Northern District of Ohio, Room 208 U.S. Courthouse, 2 South Main St., Akron, Ohio 44308 (contact Assistant United States Attorney James L. Bickett); (2) the U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590 (contact Assistant Regional Counsel Deborah Carlson); and (3) the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, 202–624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the reference case and enclose a check in the amount of $3.00 (25 cents per page reproduction

[1] The rail lines involved were formerly owned by Conrail (Fort Wayne Secondary). In *Norfolk and Western Railway Company—Purchase and Operation Exemption—Consolidated Rail Corporation Between Fort Wayne and Warsaw, IN,* Finance Docket No. 32736 (ICC served Aug. 29, 1995), NW acquired 3 line segments, totaling approximately 50.15 miles. Norfolk Southern Corporation, through the offer of financial assistance procedures, acquired approximately 17.8 and 61 miles, respectively, in *Consolidated Rail Corporation—Abandonment Exemption—Between Valparaiso and Gary, IN,* Docket No. AB–167 (Sub-No. 1109X) (ICC served June 3, 1993) and *Consolidated Rail Corporation—Abandonment Between Warsaw and Valparaiso, In Kosciusko, Marshall, Starke, La Porte and Porter Counties, IN,* Docket No. AB–167 (Sub-No. 1125) (ICC served Mar. 14, 1994).

Conrail is restricted from using the trackage rights for the purpose of switching, storage of cars, or the making or breaking up of trains, except as set out in the trackage rights agreement.

costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–25286 Filed 10–11–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that a proposed consent decree in *United States* v. *Ormet Primary Aluminum Corporation,* Civil Action No. C2–95–947, was lodged on September 28, 1995 with the United States District Court for the Southern District of Ohio. The consent decree settles an action brought under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601, *et seq.* (''CERCLA''), for costs incurred by the United States in responding to a release or threat of release of hazardous substances at the Ormet Superfund Site in Monroe County, Ohio (the ''Site'') and for implementation of response action at the Site. The United States alleges that Ormet Primary Aluminum Corporation (''Ormet'') owns and operates the Site at which hazardous substances were released and is liable for costs incurred by the United States in responding to such releases pursuant to Section 107(a)(1) of CERCLA. The Consent Decree requires Ormet to reimburse the United States $128,070.73 for response costs incurred in connection with the Site and to implement a response action for the Site selected by the U.S. Environmental Protection Agency in a Record of Decision dated September 12, 1994.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Ormet Primary Aluminum Corporation,* DOJ Ref. #90–11–3–1423.

The proposed consent decree may be examined at the office of the United States Attorney, 280 N. High Street, 4th Floor, Columbus, Ohio; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, IL 60604; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 5th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $61.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–25287 Filed 10–11–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of a Consent Decree Pursuant to the Clean Air Act, the Clean Water Act, and the Resource Conservation and Recovery Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Mobil Chemical Company,* Civil Action No. 1:95 CV 858, was lodged on September 28, 1995, with the United States District Court for the Eastern District of Texas.

The Consent Decree between the United States and Mobil Chemical Company resolves violations of the Clean Air Act (''CAA'') and the Benzene and Asbestos National Emission Standards for Hazardous Air Pollutants (''NESHAP''), the Clean Water Act (''CWA'') and the company's National Pollutant Discharge Elimination System (''NPDES'') Permit, and the Resource Conservation and Recovery Act (''RCRA'') and the state and federal hazardous waste regulations occurring at the company's petrochemical facility in Beaumont, Texas. The Consent Decree includes a requirement that Mobil pay a civil penalty of $250,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Mobil Chemical Company,* DOJ Ref. No. 90–7–1–652.

The proposed Consent Decree may be examined at the office of the United States Attorney, 350 Magnolia Street, Suite 250, Beaumont, Texas 77701–2237; the Region VI Office of the Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $3.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–25288 Filed 10–11–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Settlement Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980

In accordance with Departmental policy, notice is hereby given that a proposed Settlement Agreement in *In re: Servam Corporation, et al.,* Case No. 92–53469 (Bankr. Ct. D. Conn.), was lodged on October 2, 1995 with the United States Bankruptcy Court for the District of Connecticut. This proposed Settlement Agreement will, if entered, settle a proof of claim filed against Service America Corporation (''SAC'') and The Macke Company (''Macke'') (collectively ''Debtors''), debtors in the above proceeding, by the United States on behalf of the Environmental Protection Agency (''EPA''), pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. § 9607, in connection with the Old City of York Landfill, York County, Springfield Township, Pennsylvania and the Elizabethtown Landfill, Lancaster County, West Donegal Township, Pennsylvania.

The proposed Settlement Agreement provides for an allowed claim by the United States, a general unsecured creditor, in the amount of $6.3 million against Debtors. Pursuant to the Debtors' Plan of Reorganization this claim will be paid at the estimated rate of 7.431 cents on the dollar in cash plus 4.8 cents on the dollar in common stock. Waste Management, Inc., another potentially responsible party (''PRP'') under CERCLA at both the Sites, is performing the response activities at both Sites. The Debtors are required to pay 80% of the cash amount to the United States within 30 days after the entry of the Settlement Agreement by the U.S. Bankruptcy Court for the District of Connecticut, Bridgeport Division. The Debtors are

required to pay 20% of the cash amount and 100% of the common stock to Waste Management, Inc. within 30 days after the entry of the Settlement Agreement.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Settlement Agreement. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to DOJ Ref. #90–11–2–878.

The proposed Settlement Agreement may be examined at the Office of the United States Attorney for the District of Connecticut, 915 Lafayette Boulevard, Bridgeport, Connecticut 06604; the Region III Office of the Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, 202–624–0892. A copy of the proposed Settlement Agreement may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $3.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–25282 Filed 10–11–95; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

United States versus Greyhound Lines, Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia, in *United States* v. *Greyhound Lines, Inc.*, Civil Action No. 95:CV01852. The Complaint in this case alleges that lease agreements between Greyhound and tenant bus companies operating at Greyhound's terminals violate Section 1 of the Sherman Act. The standard Bus Terminal License agreement between Greyhound and its tenants prohibits the tenants from selling tickets within a 25-mile radius of Greyhound's terminal or from accepting the tickets of other bus companies sold in this area. This provision is commonly known as the ''25-mile rule.'' The Complaint alleges that the 25-mile rule restricts competition in the provision of intercity bus transportation by preventing Greyhound's tenants from providing connecting service with bus companies operating at other terminals and from providing bus service from non-terminal facilities, such as airports and train stations. The Complaint also alleges that the 25-mile rule restricts competition in the distribution and sale of tickets for intercity bus transportation.

On September 28, 1995, the United States and Greyhound filed a Stipulation in which they consented to the entry of a proposed Final Judgment providing the relief the United States seeks in the Complaint. The proposed Final Judgment requires Greyhound to remove the 25-mile rule from its Bus Terminal License agreements within 60 days of the entry of the Final Judgment. The proposed Final Judgment also enjoins Greyhound from terminating or discriminating against a tenant in order to prevent ticket sales outside the Greyhound terminal. Furthermore, Greyhound is enjoined from entering into exclusive interconnection agreements with other bus companies.

Public comment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the Federal Register and filed with the Court. Comments should be directed to Roger W. Fones, Chief, Transportation, Energy & Agriculture Section, Antitrust Division, Department of Justice, Room 9104, 555 Fourth Street, NW., Washington, DC 20001 (telephone: 202–307–6351).

Rebecca P. Dick,

Deputy Director, Office of Operations, Antitrust Division.

United States District Court for the District of Columbia

United States of America, Plaintiff v. *Greyhound Lines, Inc.*, Defendant.

[Civil Action No. 95–1852]

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys that:

1. The Court has jurisdiction over the subject matter of this action and over each of the parties thereto, and venue of this action is proper in the District of Columbia;

2. The parties consent that a Final Judgment in the from hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that the Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendant and by filing that notice with the Court;

3. In the event Plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatsoever, and the making of this Stipulation shall be without prejudice to pay party in this or any other proceeding.

Dated: September 28, 1995.

For Plaintiff United States of America.

Michael D. Billiel,

Michele B. Felasco,

Attorneys, U.S. Department of Justice, Antitrust Division, 555 Fourth Street, N.W., Room 9104, Washington, D.C. 20001, (202) 307–6666.

For Defendant Greyhound Lines, Inc.

Mark F. Horning,

Margaret M. Clark,

Steptoe & Johnson, 1330 Connecticut Avenue, N.W., Washington, D.C. 20036–1795, (202) 429–8126.

United States District Court for the District of Columbia

United States of America, Plaintiff. v. *Greyhound Lines, Inc.,* Defendant.

[Civil Action No. 95–1852]

Final Judgment

Plaintiff, United States of America, filed its Complaint on September 28, 1995. Plaintiff and Defendant, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law. This Final Judgment shall not be evidence against or an admission by any party with respect to any issue of fact or law. Nothing in this Final Judgment shall constitute an admission by Defendant of any violation of law, liability or wrongdoing. Therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties, it is hereby

Ordered, adjudged, and decreed, as follows:

I

Jurisdiction

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against the

defendant under Section 1 of the Sherman Act, 15 U.S.C. 1.

II

Definitions

As used herein, the term:

(A) ''BTL Agreement'' means the Bus Terminal License Agreement between Greyhound Lines, Inc., as owner, leaseholder or operator of a bus terminal, and a tenant carrier.

(B) ''Defendant'' means Greyhound Lines, Inc., each of its predecessors, successors, divisions, subsidiaries, and affiliates, each other person directly or indirectly, wholly or in part, owned or controlled by it, and each partnership or joint venture to which any of them is a party, and all present and former employees, directors, officers, agents, consultants or other persons acting for or on behalf of any of them.

(C) ''Tenant carrier'' means any bus company that is a tenant at a bus terminal owned, leased or operated by Defendant.

(D) ''Twenty-five (25) Mile Rule'' means that provision in Greyhound's BTL Agreements that reads substantially as follows:

Subject to Section 1, Licensee agrees that during the term hereof, it will use the Terminal as its major terminal in the City of [Name of City] for the aforesaid operations and will not without the prior written consent of the Company allow or permit any tickets or busbills to be sold at any other place within a twenty-five (25) mile radius of the Terminal, other than the Terminal, or honor the tickets or busbills of any other carrier for such transportation which are sold within the said twenty-five (25) mile radius. Notwithstanding the foregoing, tickets or busbills of Licensee may continue to be sold, and Licensee may honor the tickets or busbills of other carriers which are sold, at any place within the said twenty-five (25) mile radius where they are being sold as of the date of this Agreement. A list of such places where tickets or busbills of Licensee are sold within the twenty-five (25) mile radius of the Terminal is appended to this Agreement as Appendix 3. If Licensee wishes to change any such place of sale of its tickets or busbills to another place within five (5) miles of such place and within the said twenty-five (25) mile radius of the Terminal, Licensee may make such change upon thirty (30) days written notice to Company. It is further understood that in all of Licensee's bus schedules and advertising pertaining to its aforesaid operations, the terminal shall appear as the only place in the City of _____ where tickets or busbills are on sale.

III

Applicability

(A) This Final Judgment applies to the defendant and to each of its subsidiaries, successors, assigns, officers, directors, employees, and agents, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

(B) Nothing contained herein shall suggest that any portion of this Final Judgment is or has been created for the benefit of any third party and nothing herein shall be construed to provide any rights to any third party.

IV

Prohibited Conduct

(A) Defendant is ordered, within 60 days from the date of entry of this Final Judgment, to remove from each of its BTL Agreements the Twenty-five (25) Mile Rule. Defendant may comply with this provision by amending its existing BTL agreements to remove the Twenty-five (25) Mile Rule or by terminating such Agreements and negotiating new agreements not containing the Twenty-five Mile Rule.

(B) Defendant is restrained and enjoined from:

1. conditioning access to its terminals, directly or indirectly, upon a tenant carrier agreeing not to: (i) sell its tickets or busbills at locations other than the Greyhound terminal, or (ii) honor the tickets or busbills of another carrier sold at such other locations.

2. terminating or threatening to terminate any BTL Agreement where the purpose or effect of such termination or threat of termination is to prohibit a tenant carrier from (i) selling its tickets or busbills at locations other than the Greyhound terminal, for transportation services using that Greyhound terminal or a terminal or facility that is competitive with such Greyhound terminal, or (ii) honoring the tickets or busbills of another carrier sold at such other locations.

3. discriminating against any tenant carrier in the terms or conditions of any BTL Agreement or other agreement governing the lease of space in a bus terminal, where the purpose or effect of such discrimination is to (a) prohibit a tenant carrier from (i) selling its tickets or busbills at locations, other than the Greyhound terminal, for transportation services using that Greyhound terminal or a terminal or facility that is competitive with such Greyhound terminal, or (ii) honoring the tickets or busbills of another carrier sold at such other locations, or (b) prohibit or substantially limit the tenant from interlining any of its traffic with another carrier at another terminal.

4. refusing to interline with any other carrier unless that carrier agrees to interline all of its traffic in a city or area with Greyhound, provided, however, that this paragraph shall not apply to an agreement between Greyhound and its franchisee, operating lessee or contractor.

(C) Nothing in this Final Judgment shall:

1. affect any provisions of defendant's existing BTL Agreements, other than the Twenty-five (25) Mile Rule.

2. restrict Greyhound from (i) negotiating or renegotiating any percentage or minimum rents or other terms of compensation, including different terms of compensation for different tenants, provided that such differences in rents or terms of compensation are not conditioned on the tenant's use or non-use of a terminal other than the Greyhound terminal or (ii) from requiring that a tenant provide Greyhound with information on traffic volume using the Greyhound terminal, ticket sales of originating traffic or similar information needed to calculate or adjust compensation.

3. restrict Greyhound from negotiating or renegotiating any non-compensation terms or provisions in its current or future BTL Agreement, except as provided in paragraph B above.

4. affect Greyhound's right to grant, control or terminate access to or usage of its terminals, including but not limited to termination for breach of a BTL Agreement, except as provided in paragraph B above.

5. affect Greyhound's right to terminate any BTL Agreement due to a tenant carrier's refusal to renegotiate or agree to amended terms and conditions of a BTL Agreement, except as provided in paragraph B above.

6. except as provided in paragraphs B(3) and C(2) above, require Greyhound to offer all tenants at a terminal identical terms of access, including but not limited to terms of compensation.

7. affect Greyhound's obligation to comply with any federal, state or local law, rule, regulation or administrative order pertaining to terminal access or the interlining of traffic among carriers or affect Greyhound's operations pursuant to any effective tariff filed with the Interstate Commerce Commission or any successor agency, including any Commission or agency decision ruling upon or interpreting such tariff, or any pooling agreements while approved by the Interstate Commerce Commission or any successor agency.

8. affect Greyhound's unilateral right to: (i) refuse to enter into, or terminate any interline agreement with any carrier; (ii) refuse to provide services to any carrier that has not authorized Greyhound to furnish such services or has not agreed to compensate

Greyhound for such services pursuant to an agreement, or (iii) establish passenger or package express fares, terms or conditions relating to its transportation services.

V

Disclosure

Defendant is ordered to send, within 60 days from the date of entry of this Final Judgment, a copy of this Final Judgment to each tenant carrier subject to a BTL Agreement, together with a written statement that the Twenty-five (25) Mile Rule is no longer in effect and will not be enforced.

VI

Compliance Program

Defendant is ordered to maintain an antitrust compliance program which shall include the following:

(A) Designating within 30 days of entry of this Final Judgment, an Antitrust Compliance Officer with responsibility for accomplishing the antitrust compliance program and with the purpose of achieving compliance with this Final Judgment. The Antitrust Compliance Officer shall, on a continuing basis, supervise the review of the current and proposed activities of defendant to ensure that it complies with this Final Judgment.

(B) The Antitrust Compliance Officer shall be responsible for accomplishing the following activities:

1. distributing copies of this Final Judgment in accordance with section V above;

2. distributing, within 60 days from the entry of this Final Judgment, a copy of this Final Judgment to all officers and employees with responsibility for operating or managing terminals, negotiating BTL (or other terminal access) Agreements, overseeing compliance with BTL (or other terminal access) Agreements, or tenant carrier relations;

3. briefing annually the officers and employees described above on this Final Judgment.

VII

Certification

(A) Within 75 days after the entry of this Final Judgment, the defendant shall certify to the plaintiff that it has complied with IV(A) above, designated, an Antitrust Compliance Officer, and distributed the Final Judgment in accordance with Sections V and VI above.

(B) For each year of the term of this Final Judgment, the defendant shall file with the plaintiff, on or before the anniversary date of entry of this Final Judgment, a statement as to the fact and manner of its compliance with the provisions of V and VI above.

VIII

Plaintiff Access

(A) To determine or secure compliance with this Final Judgment and for no other purpose, duly authorized representatives of the plaintiff shall, upon written request of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant made to its principal office, be permitted, subject to any legally recognized privilege:

1. access during the defendant's normal office hours to inspect and copy all documents in the possession or under the control of the defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

2. subject to the reasonable convenience of the defendant and without restraint or interference from it, to interview officers, employees or agents of the defendant, who may have counsel present, regarding such matters.

(B) Upon the written request of the Assistant Attorney General in charge of the Antitrust Division made to the defendant's principal office, the defendant shall submit such written reports, under oath if requested, subject to any legally recognized privilege.

(C) No information or documents obtained by the means provided in Section VIII shall be divulged by the plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(D) If at the time information or documents are furnished by the defendant to plaintiff, the defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendant marks such material, ''subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then 10 days notice shall be given by plaintiff to defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which defendant is not a party.

IX

Further Elements of the Final Judgment

(A) This Final Judgment shall expire ten years from the date of entry.

(B) Jurisdiction is retained by this Court for the purpose of enabling the parties to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions.

(C) Entry of this Final Judgment is in the public interest.

Dated _____.

_____

UNITED STATES DISTRICT JUDGE

United States District Court for the District of Columbia

United States of America, Plaintiff, vs. *Greyhound Lines, Inc.* Defendant.

[Case Number: 1:95CV01852]

Judge: Royce C. Lamberth.
Date Stamp: 09/28/95.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16(b)–(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry with the consent of Greyhound Lines, Inc. in this antitrust proceeding.

I

Nature and Purpose of the Proceeding

On September 28, 1995, the United States filed a Complaint alleging that Greyhound Lines, Inc. (''Greyhound'') had violated Section 1 of the Sherman Act, 15 U.S.C. 1. The Complaint challenges a provision in Greyhound's bus terminal leases that prohibit tenant bus companies from selling tickets for intercity bus transportation within a 25-mile radius of Greyhound's terminals. The effect of this provision, commonly known as the ''25-mile rule,'' has been to restrict competition in the provision of intercity bus transportation service and in the sale of tickets for such service.

On September 28, 1995, the United States and Greyhound filed a Stipulation by which they consented to the entry of a proposed Final Judgment designed to eliminate the 25-mile rule and prevent Greyhound from using any similar restriction. Under the proposed Final Judgment, Greyhound would be required to remove the 25-mile rule from existing terminal leases and would be enjoined from taking actions to

impose similar restrictions on tenants in the future.

The United States and Greyhound have agreed that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment will terminate the action, except that the Court will retain jurisdiction to construe, modify, and enforce the Final Judgment, and to punish violations of the its provisions.

II

Description of the Alleged Violation

Greyhound is the only nationwide intercity but company providing bus transportation services for passengers and package express. Greyhound's total operating revenues for 1994 were approximately $616 million.

Greyhound operates approximately 200 bus terminals throughout the United States. Many smaller bus companies operate out of Greyhound's terminals pursuant to agreements known as Bus Terminal License (''BTL'') agreements. Currently. Greyhound has approximately 200 BTLs in effect with tenant bus companies in approximately 135 cities.

Under the terms of the BTLs, Greyhound acts as the tenant bus companies' exclusive ticket agent, and also provides other services, including baggage handling, package express handling, and maintenance of the terminal facilities. The tenant bus companies pay rents based on ticket sales, either in the form of a set commission on each ticket sold or a pro rata share of the costs of operating the terminal. If a tenant's sales fall below a certain level, it pays a minimum rental fee specified in the BTL. The BTLs are terminable by either party on 30-days notice.

In August of 1992, Greyhound notified its tenants that all existing BTLs were to be terminated effective September 30, 1992, and that those bus companies wishing to remain tenants of Greyhound would be required to execute a new standardized BTL. Following several months of negotiations, Greyhound and its tenants executed new BTLs, most of which became effective in the first half of 1993.

One of the new provisions contained in the current BTL agreements between Greyhound and its tenants is the 25-mile rule. The provision reads as follows:

> Subject to Section 1, Licensee agrees that during the term hereof, it will use the Terminal as its major terminal in the City of _____ for the aforesaid operations and will not without the prior written consent of Company allow or permit any tickets or busbills to be sold at any other place within a twenty-five (25) mile radius of the Terminal, other than the Terminal, or honor the tickets or busbills of any other carrier for such transportation which are sold within the said twenty-five (25) mile radius. Notwithstanding the foregoing, tickets or busbills of Licensee may continue to be sold, and Licensee may honor the tickets or busbills of other carriers which are sold, at any place within the twenty-five (25) mile radius where they are being sold as of the date of this Agreement. A list of such places where tickets or busbills of Licensee are sold within the twenty-five mile radius of the Terminal is appended to this Agreement as Appendix 3. If Licensee wishes to change any such place of sale of its tickets or busbills to another place within five (5) miles of such place and within the said twenty-five (25) mile radius of the Terminal, Licensee may make such change upon thirty (30) days written notice to Company. It is further understood that in all of Licensee's bus schedules and advertising pertaining to its aforesaid operations, the Terminal shall appear as the only place in the City of _____ where tickets or busbills are on sale.

The 25-mile rule prevents the tenant bus companies from selling bus tickets within a 25-mile radius of the Greyhound terminal in which they are a tenant, unless the location was grandfathered-in at the time the BTL was negotiated. The tenant bus companies are also prohibited from accepting bus tickets sold by any other carrier within the 25-mile area. Thus, tenant bus companies are prohibited from selling tickets at other bus terminals or stops, through travel agents, or by telephone from locations within the 25-mile radius.

The rule has anticompetitive effects in two types of markets: intercity bus service and ticket distribution services. The effects on intercity bus service are of great concern and occur when the tenant is an actual or potential competitor of Greyhound in the provision of intercity bus service (either alone or, more commonly, through interlining with another carrier) in at least some city-pairs . In addition, the rule eliminates competition in the distribution of bus tickets, making Greyhound the exclusive ticket agent in the 25-mile area.

Although most cities and towns are served by only the Greyhound terminal, in some larger metropolitan areas a second terminal exists. Bus companies often wish to serve more than one terminal in the same city in order to increase their opportunities to interline (exchange passengers) with other bus companies. Interlining benefits consumers by both increasing the number of destinations to which they have convenient connecting service and, in some cases, by giving consumers a choice between competing bus companies for at least part of their trip. Because bus companies generally find it undesirable to operate out of a terminal if originating passengers cannot purchase tickets there, the 25-mile rule effectively prevents the tenants from operating from the second terminal. Indeed, by preventing Greyhound tenants from operating out of multiple terminals, the 25-mile rule may inhibit establishment of a second terminal. In addition, the 25-mile rule prevents tenant carriers from operating from non-terminal facilities that may be convenient for consumers, such as stops at airports, train stations, or college campuses. The 25-mile rule thus acts to prevent Greyhound's tenants from expanding their operations in ways that would significantly benefit consumers.

III

Explanation of the Proposed Final Judgment

The proposed Final Judgment is designed to eliminate the 25-mile rule from existing BTLs and to prevent future actions by the defendant to place similar restrictions on ticket sales or interlining by tenant bus companies. Greyhound is required to remove the 25-mile rule from each BTL within 60 days of the entry of the Final Judgment (Section IV(A)). Greyhound is enjoined from conditioning access to its terminals, directly or indirectly, on an agreement not to sell tickets outside the Greyhound terminal (Section IV(B)1), terminating or threatening to terminate a BTL where the purpose or effect is to prohibit outside ticket sales (Section IV(B)2), or discriminating against a tenant carrier in the terms and conditions of terminal access where the purpose or effect is to prohibit outside ticket sales (Section IV(B)3). Greyhound is also enjoined from refusing to interline with a carrier unless that carrier agrees to interline exclusively with Greyhound (Section IV(B)4).

Aside from the prohibition of the 25-mile rule or any similar restriction, the proposed Final Judgment does not limit Greyhound's ability to negotiate rents and other BTL terms with its tenants and to control terminal access (Section IV(C)). Within 60 days of entry of the proposed Final Judgment, Greyhound must provide each tenant bus company with a copy of the Final Judgment along with a written statement that the 25-mile rule is no longer in effect (Section V). The proposed Final Judgment further requires Greyhound to establish an antitrust compliance program (Section VI) and file an annual certificate of compliance with the

Government (Section VII). The plaintiff may also obtain information from the defendant concerning possible violations of the Final Judgment (Section VIII).

IV

Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured in his business or property as a result of conduct forbidden by the antitrust laws may bring suit in federal court to recover three times the damages suffered, as well as costs and reasonable attorneys fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought.

V

Procedure Available for Modification of the Proposed Final Judgment

The United States and defendant have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within 60 days of the date of publication of this Competitive Impact Statement in the Federal Register. The United States will evaluate the comments, determine whether it should withdraw its consent, and respond to the comments. The comments and the response of the United States will be filed with the Court and published in the Federal Register.

Written comments should be submitted to: Roger W. Fones, Chief, Transportation, Energy & Agriculture Section, Antitrust Division, U.S. Department of Justice, Judiciary Center Building, 555 Fourth Street NW., Rm. 9104, Washington, DC 20001.

VI

Alternative to the Proposed Final Judgment

The alternative to the proposed Final Judgment would be a full trial of the case against Greyhound. In the view of the Department of Justice, such a trial would involve substantial cost to the United States and is not warranted because the proposed Final Judgment provides relief that will remedy the violations of the Sherman Act alleged in the Complaint.

VII

Determinative Materials and Documents

There are no materials or documents that the United States considered to be determinative in formulating this proposed Final Judgment. Accordingly, none are being filed with this Competitive Impact Statement.

Dated: September 28, 1995.

Respectfully submitted,

Michael D. Billiel (D.C. Bar #394377),

Michele B. Felasco,

Attorneys, U.S. Department of Justice, Antitrust Division, 555 Fourth Street, N.W., Washington, D.C. 20001, (202) 307–6666.

Certificate of Service

I hereby certify that I have caused a copy of the foregoing Competitive Impact Statement to be served on counsel for defendant in this matter in the manner set forth below:

By hand: Mark F. Horning, Esquire, Steptoe & Johnson, 1330 Connecticut Ave., N.W., Washington, D.C. 20036–1795, for defendant Greyhound Lines, Inc.

Dated: September 28, 1995.

Michael D. Billiel,

Antitrust Division, U.S. Department of Justice, 555 Fourth Street, N.W., Washington, D.C. 20001, (202) 307–6666.

[FR Doc. 95–25289 Filed 10–11–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Women's Bureau; Commission on Family and Medical Leave; Notice of Meeting

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of public meeting.

SUMMARY: The Commission on Family and Medical Leave was established by an Act of Congress, the Family and Medical Leave Act, Public Law 103–3.

TIME AND PLACE: The meeting will be held on Wednesday, October 25, 1995, from 9:30 am to 12 Noon, at the Department of Labor, 200 Constitution Avenue, N.W., Room C–5515, Seminar Room 1A and 1B (5th Floor).

PUBLIC PARTICIPATION: The meeting will be open to the public. It will be in session from 9:30 am to 12 Noon. Seating will be available to the public on a first-come, first served basis. Persons with disabilities, wishing to attend, should contact the Office of the Commission to obtain appropriate accommodations. Individuals wishing to submit written statements should send 16 copies to Ann Bookman, Acting Executive Director, Commission on Family and Medical Leave, Room S–3002, Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Ann Bookman, Telephone (202) 219–6611; Ext. 158.

Signed at Washington, D.C. this 6th day of October, 1995.

Ann Bookman,

Acting Executive Director, Commission on Leave.

[FR Doc. 95–25266 Filed 10–11–95; 8:45 am]

BILLING CODE 4510–23–M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below, not later than October 23, 1995.

Interested persons are invited to submit written comments regarding the

subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 23, 1995.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 25th day of September, 1995.

Victor J. Trunzo,

Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 09/25/95]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
31,440	B.P. Chemicals (Wkrs)	Santa Ana, CA	09/11/95	Graphite, Kevlar and Rubber for Aerospace.
31,441	AT&T Networks Systems (Wkrs)	Rolling Meadows, IL ...	09/10/95	Install Telecommunication Equipment.
31,442	AJD, Inc (Wkrs)	Richmond, VA	08/21/95	Baseball Caps.
31,443	American Casual Wear (Wkrs)	Jellico, TN	09/05/95	Men's Slacks.
31,444	CNG Producing Co. (Co.)	New Orleans, LA	09/01/95	Exploration & Production of Oil, Gas.
31,445	Donora Sportswear (UNITE)	Donora, PA	09/11/95	Men's Wool Top Coats.
31,446	Fruit of the Loom (Wkrs)	Rockingham, NC	08/29/95	Men's Tee Shirts.
31,447	Gimpel Corporation (Wkrs)	Langhorne, PA	09/05/95	Steam Control Valves & Parts.
31,448	Koch Service (Wkrs)	Watford City, ND	08/15/95	Truck Drivers for Oil, Gas Services.
31,449	Go/Dan Industries (Co.)	Dallas, TX	09/06/95	Automobile Radiator Cores.
31,450	IDEA Associate (Wkrs)	Tempe, AZ	09/11/95	Mono & Color Terminals.
31,451	S. Lavon Evans, Jr. (Wkrs)	Laurel, MS	08/16/95	Crude Oil.
31,452	Montello Products Co. (Wkrs)	Montello, WI	08/28/95	Wire Harnesses.
31,453	New England Accessories (UNITE)	Old Saybrook, CT	09/11/95	Belts and Suspenders.
31,454	Oxford Industries, Inc. (Co.)	Alamo, GA	09/07/95	Men's Dress Shirts.
31,455	Ralph Lauren Womenswear (UNITE)	New York, NY	09/06/95	Ladies' Sportswear Samples.
31,456	Rawley Lumber & Hardware (Wkrs)	Hudson, MI	09/08/95	Lumber—Building Materials.
31,457	Reckitt & Colman (Co.)	Alliance, OH	08/18/95	Cleaners and Disinfectants.
31,458	Supreme Slipper (Wkrs)	Bangor, ME	09/01/95	Men's Slippers.
31,459	Treasure Craft (Co.)	Compton, CA	09/07/95	Sculpted Ceramic Cookie Jars.
31,460	Irwin B. Schwabe (Wkrs)	New Albany, MS	09/11/95	Men's Shirts.
31,461	Brown Shoe Co. (Co.)	Pocahontas, AR	09/12/95	Ladies' Shoes.
31,462	Brown Shoe (Wkrs)	St. Louis, MO	09/11/95	Ladies' Shoes.
31,463	Brown Shoe Company (Wkrs)	Cabool, MO	09/11/95	Ladies' Shoes.
31,464	Canton Manufacturing Co. (UNITE)	Canton, IL	09/19/95	Industrial Work Clothes.
31,465	Cranston Print Works Co. (Co.)	Cranston, RI	09/13/95	Printed Fabrics for Ladies' Apparel.
31,466	Sierra Western Int'l (Co.)	El Paso, TX	09/15/95	Ladies' Jeans.
31,467	Hercules Inc. (OCAW)	Radford, VA	09/14/95	Propellants for Ammunition Systems.
31,468	Kelsey Sportswear (UNITE)	Wisconisco, PA	09/12/95	Sportswear, Skirts and Slacks.
31,469	Abbott and Company (Co)	Lafyette, GA	09/12/95	Electrical Wiring Harnesses.
31,470	Pennsylvania Electric (Wkrs)	Erie, PA	09/07/95	Wrapping Coils for Inserting in Motors.
31,471	Sterling Last Corp. (ACTWU)	Long Island, NY	09/14/95	Plastic Mold for Shoes.
31,472	Sara International, Inc (Wkrs)	Opa Locka, FL	09/08/95	Ladies' Apparel.

[FR Doc. 95–25262 Filed 10–11–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,330]

Hollingsworth & Vose Company, Fall River, Massachusetts; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 14, 1995, in response to a worker petition which was filed on August 14, 1995, on behalf of workers at Hollingsworth & Vose Company, Fall River, Massachusetts.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of September, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–25263 Filed 10–11–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,488]

Pine & Company (AKA Pine Shirt Company), Pottsville, PA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 2, 1995 in response to a worker petition which was filed on October 2, 1995 on behalf of workers at Pine & Company (aka Pine Shirt Company), Pottsville, Pennsylvania.

An active certification covering the petitioning group of workers remains in effect (TA–W–31,429). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 2nd day of October, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–25261 Filed 10–11–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–29,206 & 206A]

Vought Aircraft Company, a/k/a LTV Aerospace & Defense Company Dallas, Texas and Dayton, Ohio; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Notice of Revised Determination on Reopening regarding worker eligibility for workers and former workers of Vought Aircraft a/k/a LTV Aerospace & Defense Company located in Dallas, Texas to apply for trade adjustment assistance. The notice was published in the Federal Register on December 2, 1994 (59 FR 61902).

At the request of a petitioner, the Department reviewed the certification for the subject firm. New findings show that worker separations have occurred at the Vought Aircraft location in Dayton, Ohio.

The intent of the Department's certification is to include all workers of the subject firm adversely affected by increased imports.

The amended notice applicable to TA–W–29,206 is hereby issued as follows:

''All workers and former workers of Vought Aircraft Company, a/k/a LTV Aerospace & Defense Company, Dallas, Texas and Dayton, Ohio, except workers certified under TA–W–28,470, who became totally or partially separated from employment on or after October 6, 1992 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC this 29th day of September 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–25264 Filed 10–11–95; 8:45 am]

BILLING CODE 4510–30–M

Labor Surplus Area Classification Under Executive Orders 12073 and 10582; Notice of the Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATES: The annual list of labor surplus areas is effective October 1, 1995.

SUMMARY: The purpose of this notice is to announce the annual list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: William J. McGarrity, Labor Economist, USES, Employment and Training Administration, 200 Constitution Avenue, N.W., Room N–4470, Attention: TEESS, Washington, D.C. 20210. Telephone: 202–219–5185.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under the Order for classifying and designating areas as labor surplus areas. Executive agencies should refer to Federal Acquisition Regulation Part 20 (48 CFR Part 20) in order to assess the impact of the labor surplus areas program on particular procurements.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Acquisition Regulation Part 25 (48 CFR Part 25) implements Executive Order 12260. Executive agencies should refer to Federal Acquisition Regulation Part 25 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor is publishing the annual list of labor surplus areas.

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The areas described below have been classified by the Assistant Secretary as labor surplus areas pursuant to 20 CFR 654.5(b) (48 FR 15615 April 12, 1983) and are effective October 1, 1995 through September 30, 1996.

The list of labor surplus areas is published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, D.C. on September 29, 1995.

Timothy M. Barnicle,

Assistant Secretary.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE

[October 1, 1995 Through September 30, 1996]

Eligible labor surplus areas	Civil jurisdictions included
ALABAMA	
Anniston City	Anniston City in Calhoun County.
Barbour County	Barbour County.
Bessemer City	Bessemer City in Jefferson County.
Bibb County	Bibb County.
Bullock County	Bullock County.
Butler County	Butler County.
Chambers County	Chambers County.
Chilton County	Chilton County.
Choctaw County	Choctaw County.
Clarke County	Clarke County.
Clay County	Clay County.
Colbert County	Colbert County.
Conecuh County	Conecuh County.
Balance of Dale County.	Dale County less Dothan City.
Dallas County	Dallas County.
Escambia County	Escambia County.
Fayette County	Fayette County.
Florence City	Florence City in Lauderdale County.
Gadsden City	Gadsden City in Etawah County.
Greene County	Greene County.
Hale County	Hale County.
Henry County	Henry County.
Jackson County	Jackson County.
Lawrence County	Lawrence County.
Lowndes County	Lowndes County.
Macon County	Macon County.
Mrengo County	Marengo County.
Marion County	Marion County.
Mobile City	Mobile City in Mobile County.
Monroe County	Monroe County.
Perry County	Perry County.
Pickens County	Pickens County.
Prichard City	Prichard City in Mobile County.
Randolph County	Randolph County.
Sumter County	Sumter County.
Talladega County	Talladega County.
Walker County	Walker County.
Washington County	Washington County.
Wilcox County	Wilcox County.
ALASKA	
Bethel Census Area	Bethel Census Area.
Denali Borough	Denali Borough.
Dillingham Census Area.	Dillingham Census Area.
Fairbanks City	Fairbanks City in Fairbanks North Star Borough.
Haines Borough	Haines Borough.
Kenai Peninsula Borough.	Kenai Peninsula Borough.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1995 Through September 30, 1996]

Eligible labor surplus areas	Civil jurisdictions included
Ketchikan Gateway Borough.	Ketchikan Gateway Borough.
Kodiak Island Borough.	Kodiak Island Borough.
Matanuska-Susitna Borough.	Matanuska-Susitna Borough.
Nome Census Area ..	Nome Census Area.
Northwest Arctic Borough.	Northwest Arctic Borough.
Prince of Wales Outer Ketchikan.	Prince of Wales Outer Ketchikan.
Sitka Borough	Sitka Borough.
Skagway-Hoonah-Angoon Cen Area.	Skagway-Hoonah-Angoon Cen Area.
Southeast Fairbanks Census Area.	Southeast Fairbanks Census Area.
Valdez Cordova Census Area.	Valdez Cordova Census Area.
Wade Hampton Census Area.	Wade Hampton Census Area.
Wrangell-Petersburg Census Area.	Wrangell-Petersburg Census Area.
Yakutat Borough	Yakutat Borough.
Yukon-Koyukuk Census Area.	Yukon-Koyukuk Census Area.
ARIZONA	
Apache County	Apache County.
Balance of Cochise County.	Cochise County less Sierra Vista City.
Balance of Coconino County.	Coconino County less Flagstaff City.
Gila County	Gila County.
Graham County	Graham County.
Greenlee County	Greenlee County.
La Paz County	La Paz County.
Balance of Mohave County.	Mohave County less Lake Havasu City.
Navajo County	Navajo County.
Santa Cruz County ...	Santa Cruz County.
Yuma City	Yuma City in Yuma County.
Balance of Yuma County.	Yuma County less Yuma City.
ARKANSAS	
Bradley County	Bradley County.
Calhoun County	Calhoun County.
Chicot County	Chicot County.
Clay County	Clay County.
Cross County	Cross County.
Dallas County	Dallas County.
Desha County	Desha County.
Hot Springs City	Hot Springs City in Garland County.
Izard County	Izard County.
Jackson County	Jackson County.
Lafayette County	Lafayette County.
Lee County	Lee County.
Little River County	Little River County.
Mississippi County	Mississippi County.
Monroe County	Monroe County.
Ouachita County	Ouachita County.
Perry County	Perry County.
Phillips County	Phillips County.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1995 Through September 30, 1996]

Eligible labor surplus areas	Civil jurisdictions included
Pine Bluff City	Pine Bluff City in Jefferson County.
Poinsett County	Poinsett County.
Prairie County	Prairie County.
St. Francis County	St. Francis County.
Van Buren County	Van Buren County.
Woodruff County	Woodruff County.
CALIFORNIA	
Alhambra City	Alhambra City in Los Angeles County.
Alpine County	Alpine County.
Amador County	Amador County.
Antioch City	Antioch City in Contra Costa County.
Apple Valley City	Applle Valley City in San Bernardino County.
Azusa City	Azusa City in Los Angeles County.
Bakersfield City	Bakersfield City in Kern County.
Baldwin Park City	Baldwin Park City in Los Angeles County.
Bell City	Bell City in Los Angeles County.
Bell Gardens City	Bell Gardens City in Los Angeles County.
Balance of Butte County.	Butte County less Chico City, Paradise City.
Calaveras County	Calaveras County.
Carson City	Carson City in Los Angeles County.
Cathedral City	Cathedral City in Riverside County.
Ceres City	Ceres City in Stanislaus County.
Chico City	Chico City in Butte County.
Chula Vista City	Chula Vista City in San Diego County.
Clovis City	Clovis City in Fresno County.
Colton City	Colton City in San Bernardino County.
Colusa County	Colusa County.
Compton City	Compton City in Los Angeles County.
Corona City	Corona City in Riverside County.
Del Norte County	Del Norte County.
El Cajon City	El Cajon City in San Diego County.
El Centro City	El Centro City in Imperial County.
El Dorado County	El Dorado County.
El Monte City	El Monte City in Los Angeles County.
Eureka City	Eureka City in Humboldt County.
Fairfield City	Fairfield City in Solano County.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1995 Through September 30, 1996]

Eligible labor surplus areas	Civil jurisdictions included
Fontana City	Fontana City in San Bernardino County.
Fresno City	Fresno City in Fresno County.
Balance of Fresno County.	Fresno County less Clovis City, Fresno City.
Garden Grove City	Garden Grove City in Orange County.
Gilroy City	Gilroy City in Santa Clara County.
Glendale City	Glendale City in Los Angeles County.
Glenn County	Glenn County.
Hanford City	Hanford City in Kings County.
Hawthorne City	Hawthorne City in Los Angeles County.
Hemet City	Hemet City in Riverside County.
Hesperia City	Hesperia City in San Bernardino County.
Highland City	Highland City in San Bernardino County.
Balance of Humboldt County.	Humboldt County less Eureka City.
Huntington Park City .	Huntington Park City in Los Angeles County.
Imperial Beach City ..	Imperial Beach City in San Diego County.
Balance of Imperial County.	Imperial County less El Centro City.
Indio City	Indio City in Riverside County.
Inglewood City	Inglewood City in Los Angeles County.
Inyo County	Inyo County.
Balance of Kern County.	Kern County less Bakersfield City, Ridgecrest City.
Balance of Kings County.	Kings County less Hanford City.
La Puente City	La Puente City in Los Angeles County.
Lake County	Lake County
Lancaster City	Lancaster City in Los Angeles County.
Lassen County	Lassen County.
Lawndale City	Lawndale City in Los Angeles County.
Lemon Grove City	Lemon Grove City in San Diego County.
Lodi City	Lodi City in San Joaquin County.
Lompoc City	Lompoc City in Santa Barbara County.
Long Beach City	Long Beach City in Los Angeles County.
Los Angeles City	Los Angeles City in Los Angeles County.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1995 Through September 30, 1996]

Eligible labor surplus areas	Civil jurisdictions included
Balance of Los Angeles County.	Los Angeles County less Alhambra City, Arcadia City, Azusa City, Baldwin Park City, Bell City, Bell Gardens City, Bellflower City, Beverly Hills City, Burbank City, Carson City, Cerritos City, Claremont City, Compton City, Covina City, Culver City, Diamond Bar City, Downey City, El Monte City, Gardena City, Glendale City, Glendora City, Hawthorne City, Huntington Park City, Inglewood City, La Mirada City, La Puente City, La Verne City, Lakewood City, Lancaster City, Lawndale City, Long Beach City, Los Angeles City, Lynwood City, Manhattan Beach City, Maywood City, Monrovia City, Montebello City, Monterey Park City, Norwalk City, Palmdale City, Paramount City, Pasadena City, Pico Rivera City, Pomona City, Rancho Palos Verdes City, Redondo Beach City, Rosemead City, San Dimas City, San Garbriel City, Santa Clarita City, Santa Monica City, South Gate City, Temple City, Torrance City, Walnut City, West Covina City, West Hollywood City, Whittier City.
Lynwood City	Lynwood City in Los Angeles County.
Madera City	Madera City in Madera County.
Balance of Madera County.	Madera County less Madera City.
Manteca City	Manteca City in San Joaquin County.
Marina City	Marina City in Monterey County.
Mariposa County	Mariposa County.
Maywood City	Maywood City in Los Angeles County.
Mendocino County	Mendocino County.
Merced City	Merced City in Merced County.
Balanced of Merced County.	Merced County less Merced City.
Modesto City	Modesto City in Stanislaus County.
Modoc County	Modoc County.
Mono County	Mono County.
Monrovia City	Monrovia City in Los Angeles County.
Montclair City	Montclair City in San Bernardio County.
Montebello City	Montebello City in Los Angeles County.
Balance of Monterey County.	Monterey County less Marina City, Monterey City, Salinas City, Seaside City.
Monterey Park City	Monterey Park City in Los Angeles County.
Moreno Valley City	Moreno Valley City in Riverside County.
Napa City	Mapa City in Napa County.
National City	National City in San Diego County.
Nevada County	Nevada County.
Norco City	Norco City in Riverside County.
Norwalk City	Norwalk City in Los Angeles County.
Oakland City	Oakland City in Alameda County.
Oceanside City	Ocean City in San Diego County.
Ontario City	Ontario City in San Bernardion County.
Oxnard City	Oxnard City in Ventura County.
Palm Springs City	Palm Springs City in Riverside County.
Palmdale City	Palmdale City in Los Angeles County.
Paradise City	Paradise City in Butte County.
Paramount City	Paramount City in Los Angeles County.
Pasadena City	Pasadena City in Los Angeles County.
Perris City	Perris City in Riverside County.
Pico Rivera City	Pico Rivera City in Los Angeles County.
Pittsburg City	Pittsburg City in Contra Costa County.
Plumas County	Plumas County in Los Angeles County.
Pomona City	Pomona City in Los Angeles County.
Porterville City	Porterville City in Tulare County.
Redding City	Redding City in Shasta County.
Rialto City	Rialto City in San Bernardino County.
Richmond City	Richmond City in Contra Costa County.
Ridgecrest City	Ridgecrest City in Kern County.
Riverside City	Riverside City in Riverside County.
Balance of Riverside County.	Riverside County less Cathedral City, Corona City, Hemet City, Indio City, Moreno Valley City, Norco City, Palm Springs City, Perris City, Riverside City, Temecula City.
Rosemead City	Rosemead City in Los Angeles County.
Roseville City	Roseville City in Placer County.
Sacramento City	Sacramento City in Sacramento County.
Salinas City	Salinas City in Monterey County.
San Benito County	San Benito County.
San Bernardino City	San Bernardino City in San Bernardion County.
Balance of San Bernardino County.	San Bernardino County less Apple Valley City, Chino City, Colton City, Fontana City, Hesperia City, Highland City, Montclair City, Ontario City, Rancho Cucamonga City, Redlands City, Rialto City, San Bernardino City, Upland City, Victorville City, Yucaipa City.
San Gabriel City	San Gabriel City in Los Angeles County
Balance of San Joaquin County.	San Joaquin County less Lodi City, Manteca City, Stockton City, Tracey City.
San Luis Obispo City	San Luis Obispo City in San Luis Obispo County.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1995 Through September 30, 1996]

Eligible labor surplus areas	Civil jurisdictions included
San Pablo City	San Pablo City in Contra Costa County.
Santa Ana City	Santa Ana City in Orange County.
Santa Cruz City	Santa Cruz City in Santa Cruz County.
Balance of Santa Cruz County.	Santa Cruz County less Santa Cruz City, Watsonville City.
Santa Maria City	Santa Maria City in Santa Barbara County.
Santa Paula City	Santa Paula City in Ventura County.
Seaside City	Seaside City in Monterey County.
Balance of Shasta County.	Shasta County less Redding City.
Sierra County	Sierra County.
Siskiyou County	Siskiyou County.
Balance of Solano County.	Solano County less Benicia City; Fairfield City Vacaville City; Vallejo City.
South Gate City	South Gate City in Los Angeles County.
Balance of Stanislaus County.	Stanislau County less Ceres City, Modesto City; Turlock City.
Stanton City	Stanton City in Orange County.
Stockton City	Stockton City in San Joaquin County.
Balance of Sutter County.	Sutter County less Yuba City.
Tehama County	Tehama County.
Tracey City	Tracey City in San Joaquin County.
Trinity County	Trinity Couty.
Tulare City	Tulare City in Tulare County.
Balance of Tulare County.	Tulare County less Porterville City; Tulare City; Visalia City.
Tuolumne County	Tuolumne County.
Turlock City	Turlock City in Stanislaus County.
Vallejo City	Vallejo City in Solano County.
Balance of Ventura County.	Ventura County less Camarillo City, Moorpark City Oxnard City, Santa Paula City, Simi Valley City, Thousand Oaks City, Ventura City.
Victorville City	Victorville City in San Bernardino County.
Visalia City	Visalia City in Tulare County.
Vista City	Vista City in San Diego County.
Watsonville City	Watsonville City in Santa Cruz County.
West Hollywood City	West Hollywood City, in Los Angeles County.
West Sacramento City.	West Sacramento City in Yolo County.
Woodland City	Woodland City in Yolo County.
Yuba City	Yuba City in Sutter County.
Yuba County	Yuba County.
COLORADO	
Conejos County	Conejos County.
Costilla County	Costilla County.
Dolores County	Dolores County.
Lake County	Lake County.
Mineral County	Mineral County.
Rio Grande County	Rio Grande County.
Saguache County	Saguache County.
San Juan County	San Juan County.
CONNECTICUT	
Bridgeport City	Bridgeport City.
East Hartford City	East Hartford City.
Hartford City	Hartford City.
Killingly Town	Killingly Town.
New Britain City	New Britain City.
Plainfield Town	Plainfield Town.
Sterling Town	Sterling Town.
Thomaston Town	Thomaston Town.
Voluntown Town	Voluntown Town.
Waterbury City	Waterbury City.
Winchester Town	Winchester Town.
DISTRICT OF COLUMBIA	
Washington DC City	Washington DC City in District of Columbia.
FLORIDA	
Balance of Bay County.	Bay County less Panama City.
Boynton Beach City	Boynton Beach City in Palm Beach County.
Citrus County	Citrus County.
Collier County	Collier County.
Columbia County	Columbia County.
Daytona Beach City	Datona Beach City in Volusia County.
DeSoto County	DeSoto County.
Delray Beach City	Delray Beach City in Palm Beach County.
Dixie County	Dixie County.
Fort Myers City	Fort Myers City in Lee County.
Fort Pierce City	Fort Pierce City in St. Lucie County.
Ft. Lauderdale City	Ft. Lauderdale City in Broward County.
Glades County	Glades County.
Greenacres City	Greenacres City in Palm Beach County.
Hallandale City	Hallandale City in Broward County.
Hamilton County	Hamilton County.
Hardee County	Hardee County.
Hendry County	Hendry County.
Hialeah City	Hialeah City in Dade County.
Highlands County	Highlands County.
Indian River County	Indian River County.
Lake Worth City	Lake Worth City in Palm Beach County.
Lakeland City	Lakeland City in Polk County.
Lauderdale Lakes City.	Lauderdale Lakes City in Broward County.
Martin County	Martin County.
Melbourne City	Melbourne City in Brevard County.
Miami Beach City	Miami Beach City in Dade County.
Miami City	Miami City in Dade County.
North Miami City	North Miami City in Dade County.
Ocala City	Ocala City in Marion County.
Okeechobee County	Okeechobee County.
Balance of Palm Beach County.	Palm Beach County less Boca Raton City, Boynton Beach City, Delray Beach City, Greenacres City, Jupiter City, Lake Worth City, Palm Beach Gardens City, Riviera Beach City, West Palm Beach City.
Panama City	Panama City in Bay County.
Balance of Polk County.	Polk County less Lakeland City.
Pompano Beach City	Pompano Beach City in Broward County.
Port St. Lucie City	Port St. Lucie City in St. Lucie County.
Riviera Beach City	Riviera Beach City in Palm Beach County.
Balance of St. Lucie County.	St. Lucie County less Fort Pierce City, Port St. Lucie City.
Suwannee County	Suwannee County.
Taylor County	Taylor County.
Washington County	Washington County.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1995 Through September 30, 1996]

Eligible labor surplus areas	Civil jurisdictions included
West Palm Beach City.	West Palm Beach City in Palm Beach County.
GEORGIA	
Albany City	Albany City in Dougherty County.
Appling County	Appling County.
Atkinson County	Atkinson County.
Atlanta City	Atlanta City in DeKalb County, Fulton County.
Augusta City	Augusta City in Richmond County.
Baker County	Baker County.
Brantley County	Brantley County.
Burke County	Burke County.
Calhoun County	Calhoun County.
Decatur County	Decatur County.
Dooly County	Dooly County.
Early County	Early County.
Elbert County	Elbert County.
Emanuel County	Emanuel County.
Evans County	Evans County.
Greene County	Greene County.
La Grange City	La Grange City in Troup County.
Liberty County	Liberty County.
Macon County	Macon County.
Meriwether County	Meriwether County.
Miller County	Miller County.
Mitchell County	Mitchell County.
Montgomery County	Montgomery County.
Polk County	Polk County.
Randolph County	Randolph County.
Taylor County	Taylor County.
Telfair County	Telfair County.
Terrell County	Terrell County.
Toombs County	Toombs County.
Treutelen County	Treutlen County.
Wayne County	Wayne County.
HAWAII	
Hawaii County	Hawaii County.
Kauai County	Kauai County.
IDAHO	
Adams County	Adams County.
Benewah County	Benewah County.
Bonner County	Bonner County.
Boundary County	Boundary County.
Cassia County	Cassia County.
Clearwater County	Clearwater County.
Custer County	Custer County.
Fremont County	Fremont County.
Idaho County	Idaho County.
Balance of Kootenai County.	Kootenai County less Coeur D Alene City.
Lemhi County	Lemhi County.
Minidoka County	Minidoka County.
Payette County	Payette County.
Shoshone County	Shoshone County.
Valley County	Valley County.
Washington County	Washington County.
ILLINOIS	
Alexander County	Alexander County.
Alton City	Alton City in Madison County.
Belleville City	Belleville City in St. Clair County.
Boone County	Boone County.
Calhoun County	Calhoun County.
Carpentersville City	Carpentersville City in Kane County.
Chicago City	Chicago City in Cook County.
Cicero City	Cicero City in Cook County.
Clay County	Clay County.
Crawford County	Crawford County.
Danville City	Danville City in Vermilion County.
Decatur City	Decatur City in Macon County.
East St. Louis City	East St. Louis City in St. Clair County.
Edgar County	Edgar County.
Fayette County	Fayette County.
Franklin County	Franklin County.
Freeport City	Freeport City in Stephenson County.
Fulton County	Fulton County.
Gallatin County	Gallatin County.
Granite City	Granite City in Madison County.
Grundy County	Grundy County.
Hamilton County	Hamilton County.
Hardin County	Hardin County.
Harvey City	Harvey City in Cook County.
Balance of Jackson County.	Jackson County less Carbondale City.
Jefferson County	Jefferson County.
Johnson County	Johnson County.
Joliet City	Joliet City in Will County.
Kankakee City	Kankakee City in Kankakee County.
La Salle County	La Salle County.
Lawrence County	Lawrence County.
Macoupin County	Macoupin County.
Marion County	Marion County.
Mason County	Mason County.
Maywood Village	Maywood Village in Cook County.
Mercer County	Mercer County.
Montgomery County	Montgomery County.
North Chicago City	North Chicago City in Lake County.
Pekin City	Pekin City in Tazewell County.
Perry County	Perry County.
Pope County	Pope County.
Pulaski County	Pulaski County.
Putnam County	Putnam County.
Randolph County	Randolph County.
Rockford City	Rockford City in Winnebago County.
Saline County	Saline County.
Union County	Union County.
Balance of Vermilion County.	Vermilion County less Danville City.
Wabash County	Wabash County.
Waukegan City	Waukegan City in Lake County.
Wayne County	Wayne County.
White County	White County.
Williamson County	Williamson County.
INDIANA	
Blackford County	Blackford County.
Crawford County	Crawford County.
East Chicago City	East Chicago City in Lake County.
Fayette County	Fayette County.
Gary City	Gary City in Lake County.
Greene County	Greene County.
Marion City	Marion City in Grant County.
Orange County	Orange County.
Perry County	Perry County.
Randolph County	Randolph County.
Richmond City	Richmond City in Wayne County.
Sullivan County	Sullivan County.
Vermillion County	Vermillion County.
KANSAS	
Geary County	Geary County.
Kansas City, KN	Kansas City, KN, in Wyandotte County.
Labette County	Labette County.
Linn County	Linn County.
KENTUCKY	
Ballard County	Ballard County.
Bath County	Bath County.
Bell County	Bell County.
Boyd County	Boyd County.
Breathitt County	Breathitt County.
Carter County	Carter County.
Casey County	Casey County.
Clay County	Clay County.
Clinton County	Clinton County.
Edmonson County	Edmonson County.
Elliott County	Elliott County.
Estill County	Estill County.
Floyd County	Floyd County.
Greenup County	Greenup County.
Harlan County	Harlan County.
Jackson County	Jackson County.
Knott County	Knott County.
Lawrence County	Lawrence County.
Lee County	Lee County.
Leslie County	Leslie County.
Letcher County	Letcher County.
Lewis County	Lewis County.
Magoffin County	Magoffin County.
Marion County	Marion County.
Martin County	Martin County.
McCreary County	McCreary County.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1995 Through September 30, 1996]

Eligible labor surplus areas	Civil jurisdictions included
McLean County	McLean County.
Menifee County	Menifee County.
Montgomery County	Montgomery County.
Morgan County	Morgan County.
Muhlenberg County	Muhlenberg County.
Ohio County	Ohio County.
Perry County	Perry County.
Pike County	Pike County.
Powell County	Powell County.
Russell County	Russell County.
Wolfe County	Wolfe County
LOUISIANA	
Acadia Parish	Acadia Parish.
Alexandria City	Alexandria City in Rapides Parish.
Allen Parish	Allen Parish.
Ascension Parish	Ascension Parish.
Assumption Parish	Assumption Parish.
Avoyelles Parish	Avoyelles Parish.
Beauregard Parish	Beauregard Parish.
Bienville Parish	Bienville Parish.
Caldwell Parish	Caldwell Parish.
Catahoula Parish	Catahoula Parish.
Claiborne Parish	Claiborne Parish.
Concordia Parish	Concordia Parish.
De Soto Parish	De Soto Parish.
East Carroll Parish	East Carroll Parish.
East Feliciana Parish	East Feliciana Parish.
Evangeline Parish	Evangeline Parish.
Franklin Parish	Franklin Parish.
Grant Parish	Grant Parish.
Iberville Parish	Iberville Parish.
Jefferson Davis Parish.	Jefferson Davis Parish.
La Salle Parish	La Salle Parish.
Lake Charles City	Lake Charles City in Calcasieu Parish.
Livingston Parish	Livingston Parish.
Madison Parish	Madison Parish.
Monroe City	Monroe City in Ouachita Parish.
Morehouse Parish	Morehouse Parish.
Natchitoches Parish	Natchitoches Parish.
New Iberia City	New Iberia City in Iberia Parish.
Pointe Coupee Parish	Pointe Coupee Parish.
Red River Parish	Red River Parish.
Richland Parish	Richland Parish.
St. Charles Parish	St. Charles Parish.
St. James Parish	St. James Parish.
St. John Baptist Parish.	St. John Baptist Parish.
St. Landry Parish	St. Landry Parish.
St. Martin Parish	St. Martin Parish.
St. Mary Parish	St. Mary Parish.
Tangipahoa Parish	Tangipahoa Parish.
Tensas Parish	Tensas Parish.
Vernon Parish	Vernon Parish.
Washington Parish	Washington Parish.
Webster Parish	Webster Parish.
West Baton Rouge Parish.	West Baton Rouge Parish.
West Carroll Parish	West Carroll Parish.
West Feliciana Parish	West Feliciana Parish.
MAINE	
Balance of Androscoggin County.	Androscoggin County less Lewiston City.
Aroostook County	Aroostook County.
Franklin County	Franklin County.
Hancock County	Hancock County.
Lewiston City	Lewiston City in Androscoggin County.
Oxford County	Oxford County.
Piscataquis County	Piscataquis County.
Somerset County	Somerset County.
Waldo County	Waldo County.
Washington County	Washington County.
MARYLAND	
Allegany County	Allegany County.
Annapolis City	Annapolis City in Anne Arundel County.
Baltimore City	Baltimore City.
Cecil County	Cecil County.
Dorchester County	Dorchester County.
Garrett County	Garrett County.
Hagerstown City	Hagerstown City in Washington County.
Somerset County	Somerset County.
Worcester County	Worcester County.
MASSACHUSETTS	
Acushnet Town	Acushnet Town in Bristol County.
Adams Town	Adams Town in Berkshire County.
Athol Town	Athol Town in Worcester County.
Ayer Town	Ayer Town in Middlesex County.
Barstable Town	Barnstable Town in Barnstable County.
Blackstone Town	Blackstone Town in Worcester County.
Brimfield Town	Brimfield Town in Hampden County.
Brockton City	Brockton City in Plymouth County.
Carver Town	Carver Town in Plymouth County.
Charlemont Town	Charlemont Town in Franklin County.
Chelsea City	Chelsea City in Suffolk County.
Cheshire Town	Cheshire Town in Berkshire County.
Chester Town	Chester Town in Hampden County.
Clarksburg Town	Clarksburg Town in Berkshire County.
Dartmouth Town	Dartmouth Town in Bristol County.
Dennis Town	Dennis Town in Barnstable County.
Dracut Town	Dracut Town in Middlesex County.
Eastham Town	Eastham Town in Barnstable County.
Edgartown Town	Edgartown Town in Dukes County.
Fairhaven Town	Fairhaven Town in Bristol County.
Fall River City	Fall River City in Bristol County.
Gay Head Town	Gay Head Town in Dukes County.
Gloucester City	Gloucester City in Essex County.
Hardwick Town	Hardwick Town in Worcester County.
Harwich Town	Harwich Town in Barnstable County.
Hinsdale Town	Hinsdale Town in Berkshire County.
Holland Town	Holland Town in Hampden County
Holyoke City	Holyoke City in Hampden County.
Hubbardston Town	Hubbardston Town in Worchester County.
Huntington Town	Huntington Town in Hampshire County.
Lawrence City	Lawrence City in Essex County.
Lee Town	Lee Town in Berkshire County.
Lowell City	Lowell City in Middlesex County.
Ludlow Town	Ludlow Town in Hampden County.
Mashpee Town	Mashpee Town in Barnstable County.
Methuen Town	Methuen Town in Essex County.
Middleborough Town	Middleborough Town in Plymouth County.
Monroe Town	Monroe Town in Franklin County.
Monson Town	Monson Town in Hampden County.
New Ashford Town	New Ashford Town in Berkshire County.
New Bedford City	New Bedford City in Bristol County.
North Adams Town	North Adams Town in Berkshire County.
Orange Town	Orange Town in Franklin County.
Otis Town	Otis Town in Berkshire County.
Palmer Town	Palmer Town in Hampden County.
Phillipston Town	Phillipston Town in Worcester County.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1995 Through September 30, 1996]

Eligible labor surplus areas	Civil jurisdictions included
Pittsfield City	Pittsfield City in Berkshire County.
Plympton Town	Plympton Town in Plymouth County.
Provincetown Town	Provincetown Town in Barnstable County.
Rehoboth Town	Rehoboth Town in Bristol County.
Rowe Town	Rowe Town in Franklin County.
Salisbury Town	Salisbury Town in Essex County.
Sandisfield Town	Sandisfield Town in Berkshire County.
Savoy Town	Savoy Town in Berkshire County.
Seekonk Town	Seekonk Town in Bristol County.
Shelburne Town	Shelburne Town in Franklin County.
Somerset Town	Somerset Town in Bristol County.
Southbridge Town	Southbridge Town in Worcester County.
Southwick Town	Southwick Town in Hampden County.
Springfield City	Springfield City in Hampden County.
Swansea Town	Swansea Town in Bristol County.
Taunton City	Taunton City in Bristol County.
Tisbury Town	Tisbury Town in Dukes County.
Tolland Town	Tolland Town in Hampden County.
Truro Town	Truro Town in Barnstable County.
Wales Town	Wales Town in Hampden County.
Wareham Town	Wareham Town in Plymouth County.
Warren Town	Warren Town in Worcester County.
Wellfleet Town	Wellfleet Town in Barnstable County.
West Springfield City	West Springfield City in Hampden County
Westport Town	Westport Town in Bristol County.
Yarmouth Town	Yarmouth Town in Barnstable County.
MICHIGAN	
Alcona County	Alcona County.
Alger County	Alger County.
Alpena County	Alpena County.
Antrim County	Antrim County.
Arenac County	Arenac County.
Baraga County	Baraga County.
Bay City	Bay City in Bay County.
Burton City	Burton City in Genesee County.
Charlevoix County	Charlevoix County.
Cheboygan County	Cheboygan County.
Chippewa County	Chippewa County.
Clare County	Clare County.
Crawford County	Crawford County.
Delta County	Delta County.
Detroit City	Detroit City in Wayne County.
Emmet County	Emmet County.
Flint City	Flint City in Genesee County.
Gladwin County	Gladwin County.
Gogebic County	Gogebic County.
Highland Park City	Highland Park City in Wayne County.
Huron County	Huron County.
Inkster City	Inkster City in Wayne County.
Iosco County	Iosco County.
Iron County	Iron County.
Jackson City	Jackson City in Jackson County.
Kalkaska County	Kalkaska County.
Keweenaw County	Keweenaw County.
Lake County	Lake County.
Luce County	Luce County.
Mackinac County	Mackinac County.
Manistee County	Manistee County.
Mason County	Mason County.
Balance of Midland County.	Midland County less Midland City.
Montcalm County	Montcalm County.
Montmorency County	Montmorency County.
Mount Morris Township.	Mount Morris Township in Genesee County.
Muskegon City	Muskegon City in Muskegon County.
Newaygo County	Newaygo County.
Oceana County	Oceana County.
Ogemaw County	Ogemaw County.
Osceola County	Osceola County.
Oscoda County	Oscoda County.
Pontiac County	Pontiac County.
Port Huron City	Port Huron City in St. Clair County.
Presque Isle County	Presque Isle County.
Roscommon County	Roscommon County.
Saginaw City	Saginaw City in Saginaw County.
Sanilac County	Sanilac County.
Schoolcraft County	Schoolcraft County.
Shiawassee County	Shiawassee County.
Tuscola County	Tuscola County.
Wexford County	Wexford County.
MINNESOTA	
Aitkin County	Aitkin County.
Becker County	Becker County.
Cass County	Cass County.
Clearwater County	Clearwater County.
Hubbard County	Hubbard County.
Itasca Count	Itasca County.
Kanabec County	Kanabec County.
Koochiching County	Koochiching County.
Marshall County	Marshall County.
Morrison County	Morrison County.
Pine County	Pine County.
Red Lake County	Red Lake County.
MISSISSIPPI	
Attala County	Attala County.
Bolivar County	Bolivar County.
Chickasaw County	Chickasaw County.
Choctaw County	Choctaw County.
Claiborne County	Claiborne County.
Clay County	Clay County.
Coahoma County	Coahoma County.
Columbus City	Columbus City in Lowndes County.
George County	George County.
Greene County	Greene County.
Greenville City	Greenville City in Washington County.
Holmes County	Holmes County.
Humphreys County	Humphreys County.
Issaquena County	Issaquena County.
Jefferson County	Jefferson County.
Jefferson Davis County.	Jefferson Davis County.
Kemper County	Kemper County.
Lawrence County	Lawrence County.
Leflore County	Leflore County.
Lincoln County	Lincoln County.
Marion County	Marion County.
Marshall County	Marshall County.
Noxubee County	Noxubee County.
Panola County	Panola County.
Perry County	Perry County.
Pike County	Pike County.
Quitman County	Quitman County.
Sharkey County	Sharkey County
Stone County	Stone County.
Sunflower County	Sunflower County.
Tallahatchie County	Tallahatchie County.
Tunica County	Tunica County.
Balance of Washington County.	Washington County less Greenville City.
Wayne County	Wayne County.
Wilkinson County	Wilkinson County.
Winston County	Winston County.
Yazoo County	Yazoo County.
MISSOURI	
Benton County	Benton County.
Bollinger County	Bollinger County.
Camden County	Camden County.
Carter County	Carter County.
Chariton County	Chariton County.
Crawford County	Crawford County.
Dent County	Dent County.
Dunklin County	Dunklin County.
Gasconade County	Gasconade County.
Iron County	Iron County.
Linn County	Linn County.
Macon County	Macon County.
Madison County	Madison County.
Miller County	Miller County.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1995 Through September 30, 1996]

Eligible labor surplus areas	Civil jurisdictions included
Mississippi County	Mississippi County.
Morgan County	Morgan County.
New Madrid County ..	New Madrid County.
Pemiscot County	Pemiscot County.
Pike County	Pike County.
Pulaski County	Pulaski County.
Ripley County.	Ripley County.
Shannon County	Shannon County.
St. Joseph City	St. Joseph City in Buchanan County.
St. Louis City	St. Louis City.
St. Francois County ..	St. Francois County.
Stoddard County	Stoddard County
Stone County	Stone County.
Taney County	Taney County.
Texas County	Texas County.
Washington County ..	Washington County.
Wayne County	Wayne County.
Wright County	Wright County.
MONTANA	
Big Horn County	Big Horn County
Blaine County	Blaine County.
Deer Lodge County ..	Deer Lodge County .
Glacier County	Glacier County.
Lake County	Lake County.
Lincoln County	Lincoln County.
Mineral County	Mineral County.
Powell County	Powell County.
Roosevelt County	Roosevelt County.
Sanders County	Sanders County.
Balance of Silver Bow County.	Silver Bow County less Butte-Silver Bow City.
NEVADA	
Carson City	Carson City.
Churchill County	Churchill County.
Esmeralda County	Esmeralda County.
Eureka County	Eureka County.
Lander County	Lander County.
Lincoln County	Lincoln County.
Lyon County	Lyon County.
Mineral County	Mineral County.
North Las Vegas City	North Las Vegas City in Clark County.
White Pine County	White Pine County.
NEW HAMPSHIRE	
Coos County	Coos County.
NEW JERSEY	
Atlantic City	Atlantic City in Atlantic County.
Balance of Atlantic County.	Atlantic County less Atlantic City, Egg Harbor Township.
Berkeley Township ...	Berkeley Township in Ocean County.
Camden City	Camden City in Camden County.
Cape May County	Cape May County.
City of Orange Township.	City of Orange Township in Essex County.
Balance of Cumberland County.	Cumberland County less Millville City, Vineland City.
East Orange City	East Orange City in Essex County.
Elizabeth City	Elizabeth City in Union County.
Garfield City	Garfield City in Bergen County.
Hackensack City	Hackensack City in Bergen County.
Irvington Township	Irvington Township in Essex County.
Jersey City	Jersey City in Hudson County.
Lakewood Township .	Lakewood Township in Ocean County.
Linden City	Linden City in Union County.
Long Branch City	Long Branch City in Monmouth County.
Manchester Township	Manchester Township in Ocean County.
Millville City	Millville City in Cumberland County.
New Brunswick City ..	New Brunswick City in Middlesex County.
Newark City	Newark City in Essex County.
North Bergen Township.	North Bergen Township in Hudson County.
Passaic City	Passaic City in Passaic County.
Paterson City	Paterson City in Passaic County.
Perth Amboy City	Perty Amboy City in Middlesex County.
Plainfield City	Plainfield City in Union County.
Trenton City	Trenton City in Mercer County.
Union City	Union City in Hudson County.
Vineland City	Vineland City in Cumberland County.
West New York Town	West New York Town in Hudson County.
NEW MEXICO	
Carlsbad City	Carlsbad City in Eddy County.
Catron County	Catron County.
Cibola County	Cibola County.
Balance of Dona Ana County.	Dona Ana County less Las Cruces City.
Grant County	Grant County.
Guadalupe County	Guadalupe County.
Las Cruces City	Las Cruces City in Dona Ana County.
Luna County	Luna County
McKinley County	McKinley County.
Mora County	Mora County.
Balance of Otero County.	Otero County less Alamogordo City.
Rio Arriba County	Rio Arriba County.
Balance of San Juan County.	San Juan County Less Farmington City.
San Miguel County ...	San Miguel County.
Socorro County	Socorro County.
Taos County	Taos County.
NEW YORK	
Allegany County	Allegany County.
Auburn City	Auburn City in Cayuga County.
Binghamton City	Binghamton City in Broome County.
Bronx County	Bronx County.
Buffalo City	Buffalo City in Erie County.
Cattaraugus County ..	Cattaraugus County.
Chenago County	Chenago County.
Cortland County	Cortland County.
Elmira City	Elmira City in Chemung County.
Essex County	Essex County.
Franklin County	Franklin County.
Greene County	Greene County.
Hamilton County	Hamilton County.
Hempstead Villiage ...	Hempstead Village in Nassau County.
Balance of Jefferson County.	Jefferson County Less Watertown City.
Kings County	Kings County.
Lewis County	Lewis County.
Mount Vernon City	Mount Vernon City in Westchester County.
New York County	New York County.
Newburgh City	Newburgh City in Orange County.
Niagara Falls City	Niagara Falls City in Niagara County.
Oswego County	Oswego County
Poughkeepsie City	Poughkeepsie City in Dutchess County.
Queens County	Queens County.
Richmond County	Richmond County.
Rochester City	Rochester City in Monroe County.
St. Lawrence County	St. Lawrence County
Syracuse City	Syracuse City in Onondaga County.
Utica City	Utica City in Oneida County.
Warren County	Warren County.
Watertown City	Watertown City in Jefferson County.
Wyoming County	Wyoming County.
NORTH CAROLINA	
Anson County	Anson County.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1995 Through September 30, 1996]

Eligible labor surplus areas	Civil jurisdictions included
Brunswick County	Brunswick County.
Cherokee County	Cherokee County.
Graham County	Graham County.
Hyde County	Hyde County.
Kinston City	Kinston City in Lenoir County.
Richmond County	Richmond County.
Swain County	Swain County.
Tyrrell County	Tyrrell County.
Vance County	Vance County.
Washington County	Washington County.
Wilson City	Wilson City in Wilson County.
NORTH DAKOTA	
Benson County	Benson County.
Eddy County	Eddy County.
Mercer County	Mercer County
Mountrail County	Mountrail County.
Pembina County	Pembina County.
Rolette County	Rolette County.
Sioux County	Sioux County.
Slope County	Slope County.
OHIO	
Adams County	Adams County.
Ashtabula County	Ashtabula County.
Belmont County	Belmont County.
Brown County	Brown County.
Canton City	Canton City in Stark County.
Cleveland City	Cleveland City in Cuyahoga County.
Dayton City	Dayton City in Montgomery County.
East Cleveland City	East Cleveland City in Cuyahoga County.
Gallia County	Gallia County.
Guernsey County	Guernsey County.
Hamilton City	Hamilton City in Butler County.
Hocking County	Hocking County.
Huron County	Huron County.
Jackson County	Jackson County.
Jefferson County	Jefferson County.
Lima City	Lima City in Allen County.
Lorain City	Lorain City in Lorain County.
Mansfield City	Mansfield City in Richland County.
Marion City	Marion City in Marion County.
Massillon City	Massillon City in Stark County.
Meigs County	Meigs County.
Middletown City	Middletown City in Butler County.
Monroe County	Monroe County.
Morgan County	Morgan County.
Noble County	Noble County.
Ottawa County	Ottawa County.
Perry County	Perry County.
Pike County	Pike County.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1995 Through September 30, 1996]

Eligible labor surplus areas	Civil jurisdictions included
Sandusky City	Sandusky City in Erie County.
Scioto County	Scioto County.
Vinton County	Vinton County.
Warren City	Warren City In Trumbull County.
Youngstown City	Youngstown City in Mahoning County.
Zanesville City	Zanesville City in Muskingum County.
OKLAHOMA	
Choctaw County	Choctaw County.
Coal County	Coal County.
Haskell County	Haskell County.
Hughes County	Hughes County.
Balance of Kay County.	Kay County Less Ponca City.
Latimer County	Latimer County.
Le Flore County	Le Flore County.
McCurtain County	McCurtain County.
McIntosh County	McIntosh County.
Murray County	Murray County.
Balance of Muskogee County.	Muskogee County Less Muskogee City.
Okfuskee County	Okfuskee County.
Okmulgee County	Okmulgee County.
Pawnee County	Pawnee County.
Pittsburg County	Pittsburg County.
Ponca City	Ponca City in Kay County.
Pushmataha County	Pushmataha County.
Seminole County	Seminole County.
Sequoyah County	Sequoyah County.
OREGON	
Baker County	Baker County.
Clatsop County	Clatsop County.
Columbia County	Columbia County.
Coos County	Coos County.
Crook County	Crook County.
Curry County	Curry County.
Deschutes County	Deschutes County.
Douglas County	Douglas County.
Grant County	Grant County.
Harney County	Harney County.
Hood River County	Hood River County.
Josephine County	Josephine County.
Klamath County	Klamath County.
Lake County	Lake County.
Balance of Linn County.	Linn County Less Albany City.
Morrow County	Morrow County.
Sherman County	Sherman County.
Umatilla County	Umatilla County.
Wallowa County	Wallowa County.
Wasco County	Wasco County.
Wheeler County	Wheeler County.
PENNSYLVANIA	
Allentown City	Allentown City in Lehigh County.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1995 Through September 30, 1996]

Eligible labor surplus areas	Civil jurisdictions included
Altoona City	Altoona City in Blair County.
Armstrong County	Armstrong County.
Bedford County	Bedford County.
Balance of Cambria County.	Cambria County less Johnstown City.
Carbon County	Carbon County.
Chester City	Chester City In Delaware County.
Clarion County	Clarion County.
Clearfield County	Clearfield County.
Clinton County	Clinton County.
Erie City	Erie City in Erie County.
Fayette County	Fayette County.
Forest County	Forest County.
Greene County	Greene County.
Hazleton City	Hazleton City in Luzerne County.
Huntingdon County	Huntingdon County.
Indiana County	Indiana County.
Johnstown City	Johnstown City in Cambria County.
Juniata County	Juniata County.
Balance of Lawrence County.	Lawrence County less New Castle City.
Balance of Luzerne County.	Luzerne County less Hazleton City, Wilkes-Barre City.
Mc Kean County	Mc Kean County.
McKeesport City	McKeesport City in Allegheny County.
Mercer County	Mercer County.
Mifflin County	Mifflin County.
Monroe County	Monroe County.
New Castle City	New Castle City in Lawrence County.
Norristown Borough	Norristown Borough in Montgomery County.
Northumberland County.	Northumberland County.
Philadelphia City	Philadelphia City in Philadelphia County.
Potter County	Potter County.
Reading City	Reading City in Berks County.
Schuylkill County	Schuylkill County.
Somerset County	Somerset County.
Susquehanna County	Susquehanna County.
Venango County	Venango County.
Wayne County	Wayne County.
Balance of Westmoreland County.	Westmoreland County less Hempfield Township, North Huntingdon Township.
Wilkes-Barre City	Wilks-Barre City in Luzerine County.
Williamsport City	Williamsport City in Lycoming County.
Wyoming County	Wyoming County.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1995 Through September 30, 1996]

Eligible labor surplus areas	Civil jurisdictions included
York City County	York City in York County.
PUERTO RICO	
Adjuntas Municipio	Adjuntas Municipio.
Aguada Municipio	Aguada Municipio.
Aguadilla Municipio ...	Aguadilla Municipio.
Aguas Buenas Municipio.	Aguas Buenas Municipio.
Aibonito Municipio	Aibonito Municipio.
Anasco Municipio	Anasco Municipio.
Arecibo Municipio	Arecibo Municipio.
Arroyo Municipio	Arroyo Municipio.
Barceloneta Municipio	Barceloneta Municipio.
Barranquitas Municipio.	Barranquitas Municipio.
Bayamon Municipio ..	Bayamon Municipio.
Cabo Rojo Municipio	Cabo Rojo Municipio.
Caguas Municipio	Caguas Municipio.
Camuy Municipio	Camuy Municipio.
Canovanas Municipio	Canovanas Municipio.
Carolina Municipio	Carolina Municipio.
Catano Municipio	Catano Municipio.
Cayey Municipio	Cayey Municipio.
Ceiba Municipio	Ceiba Municipio.
Ciales Municipio	Ciales Municipio.
Cidra Municipio	Cidra Municipio.
Coamo Municipio	Coamo Municipio.
Comerio Municipio	Comerio Municipio.
Corozal Municipio	Corozal Municipio.
Culebra Municipio	Culebra Municipio.
Dorado Municipio	Dorado Municipio.
Fajardo Municipio	Fajardo Municipio.
Florida Municipio	Florida Municipio.
Guanica Municipio	Guanica Municipio.
Guayama Municipio ..	Guayama Municipio.
Guayanilla Municipio .	Guayanilla Municipio.
Gurabo Municipio	Gurabo Municipio.
Hatillo Municipio	Hatillo Municipio.
Hormigueros Municipio.	Hormigueros Municipio.
Humacao Municipio ..	Humacao Municipio.
Isabela Municipio	Isabela Municipio.
Jayuya Municipio	Jayuya Municipio.
Juana Diaz Municipio	Juana Diaz Municipio.
Juncos Municipio	Juncos Municipio.
Lajas Municipio	Lajas Municipio.
Lares Municipio	Lares Municipio.
Las Marias Municipio	Las Marias Municipio.
Las Piedras Municipio	Las Piedras Municipio.
Loiza Municipio	Loiza Municipio.
Luquillo Municipio	Luquillo Municipio.
Manati Municipio	Manati Municipio.
Maricao Municipio	Maricao Municipio.
Maunabo Municipio ...	Maunabo Municipio.
Mayaguez Municipio .	Mayaguez Municipio.
Moca Municipio	Moca Municipio.
Morovis Municipio	Morovis Municipio.
Naguabo Municipio ...	Naguabo Municipio.
Naranjito Municipio ...	Naranjito Municipio.
Orocovis Municipio ...	Orocovis Municipio.
Patillas Municipio	Patillas Municipio.
Penuelas Municipio ...	Penuelas Municipio.
Ponce Municipio	Ponce Municipio.
Quebradillas Municipio.	Quebradillas Municipio.
Rincon Municipio	Rincon Municipio.
Rio Grande Municipio	Rio Grande Municipio.
Sabana Grande Municipio.	Sabana Grande Municipio.
Salinas Municipio	Salinas Municipio.
San German Municipio.	San German Municipio.
San Juan Municipio ..	San Juan Municipio.
San Lorenzo Municipio.	San Lorenzo Municipio.
San Sebastian Municipio.	San Sebastian Municipio.
Santa Isabel Municipio.	Santa Isabel Municipio.
Toa Alta Municipio	Toa Alta Municipio.
Toa Baja Municipio ...	Toa Baja Municipio.
Trujillo Alto Municipio	Trujillo Alto Municipio.
Utuado Municipio	Utuado Municipio.
Vega Alta Municipio ..	Vega Alta Municipio.
Vega Baja Municipio .	Vega Baja Municipio.
Vieques Municipio	Vieques Municipio.
Villalba Municipio	Villalba Municipio.
Yabucoa Municipio ...	Yabucoa Municipio.
Yauco Municipio	Yauco Municipio.
RHODE ISLAND	
Bristol Town	Bristol Town.
Central Falls City	Central Falls City.
Charlestown Town	Charlestown Town.
Johnston Town	Johnston Town.
Middletown Town	Middletown Town.
New Shoreham Town	New Shoreham Town.
Newport City	Newport City.
Pawtucket City	Pawtucket City.
Providence City	Providence City.
Tiverton Town	Tiverton Town.
Warren Town	Warren Town.
West Warwick Town .	West Warwick Town.
Woonsocket City	Woonsocket City.
SOUTH CAROLINA	
Abbeville County	Abbeville County.
Allendale County	Allendale County.
Anderson City	Anderson City in Anderson County.
Bamberg County	Bamberg County.
Barnwell County	Barnwell County.
Chester County	Chester County.
Chesterfield County ..	Chesterfield County.
Clarendon County	Clarendon County.
Collecton County	Collecton County.
Darlington County	Darlington County.
Dillon County	Dillon County.
Fairfield County	Fairfield County.
Florence City	Florence City in Florence County.
Balance of Florence County.	Florence County less Florence City.
Georgetown County ..	Georgetown County.
Hampton County	Hampton County.
Balance of Horry County.	Horry County less Myrtle Beach City.
Kershaw County	Kershaw County.
Lancaster County	Lancaster County.
Lee County	Lee County.
Marion County	Marion County.
Marlboro County	Marlboro County.
McCormick County ...	McCormick County.
Myrtle Beach City	Myrtle Beach City in Horry County.
North Charleston City	North Charleston City in Charleston County.
Oconee County	Oconee County.
Orangeburg County ..	Orangeburg County.
Rockhill City	Rockhill City in York County.
Sumter City	Sumter City in Sumter County.
Balance of Sumter County.	Sumter County less Sumter City.
Union County	Union County.
Williamsburg County .	Williamsburg County.
SOUTH DAKOTA	
Buffalo County	Buffalo County.
Corson County	Corson County.
Dewey County	Dewey County.
Shannon County	Shannon County.
Todd County	Todd County.
TENNESSEE	
Campbell County	Campbell County.
Cocke County	Cocke County.
Fentress County	Fentress County.
Greene County	Greene County.
Grundy County	Grundy County.
Hancock County	Hancock County.
Hardeman County	Hardeman County.
Hardin County	Hardin County.
Haywood County	Haywood County.
Houston County	Houston County.
Humphreys County ...	Humphreys County.
Lauderdale County ...	Lauderdale County.
Lewis County	Lewis County.
McNairy County	McNairy County.
Meigs County	Meigs County.
Monroe County	Monroe County.
Morgan County	Morgan County.
Overton County	Overton County.
Rhea County	Rhea County.
Scott County	Scott County.
Sevier County	Sevier County.
Stewart County	Stewart County.
Unicoi County	Unicoi County.
Van Buren County	Van Buren County.
TEXAS	
Baytown City	Baytown City in Harris County.
Beaumont City	Beaumont City in Jefferson County.
Bee County	Bee County.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1995 Through September 30, 1996]

Eligible labor surplus areas	Civil jurisdictions included
Balance of Bowie County.	Bowie County less Texarkana City Tex.
Brooks County	Brooks County.
Brownsville City	Brownsville City in Cameron County.
Calhoun County	Calhoun County.
Balance of Cameron County.	Cameron County Less Bronwsville City, Harlingen City.
Camp County	Camp County.
Cass County	Cass County.
Cochran County	Cochran County.
Corpus Christi City	Corpus Christi City in Nueces County.
Del Rio City	Del Rio City in Val Verde County.
Dimmit County	Dimmit County.
Duval County	Duval County.
Balance of Ector County.	Ector County Less Odessa City.
Edinburgh City	Edinburgh City in Hidalgo County.
El Paso City	El Paso City in El Paso County.
Balance of El Paso County.	El Paso County Less El Paso City, Socorro City.
Frio County	Frio County.
Galveston City	Galveston City in Galveston County.
Balance of Galveston County.	Galveston County Less Friendswood City, Galveston City, League City, Texas City.
Balance of Gregg County.	Gregg County Less Longview City.
Hardin County	Hardin County.
Harlingen City	Harlingen City in Cameron County.
Balance of Harrison County.	Harrison County Less Longview City.
Balance of Hidalgo County.	Hidalgo County Less Edinburg City, McAllen City, Mission City, Pharr City.
Hood County	Hood County.
Houston City	Houston City in Fort Bend County, Harris County.
Hunt County	Hunt County.
Hutchinson County	Hutchinson County.
Jasper County	Jasper County.
Jim Hogg County	Jim Hogg County.
Jim Wells County	Jim Wells County.
Killeen City	Killeen City in Bell County.
Kinney County	Kinney County.
La Salle County	La Salle County.
Lamar County	Lamar County.
Laredo County	Laredo City in Webb County.
Leon County	Leon County.
Liberty County	Liberty County.
Longview City	Longview City in Gregg County, Harrison County.
Marion County	Marion County.
Matagorda County	Matagorda County.
Maverick County	Maverick County.
McAllen City	McAllen City in Hidalgo County.
Mission City	Mission City in Hidalgo County.
Morris County	Morris County.
Newton County	Newton County.
Nolan County	Nolan County.
Balance of Nueces County.	Nueces County Less Corpus Christi City.
Odessa City	Odessa City in Ector County.
Orange County	Orange County.
Palo Pinto County	Palo Pinto County.
Panola County	Panola County.
Pharr City	Pharr City in Hidalgo County.
Polk County	Polk County.
Port Arthur City	Port Arthur City in Jefferson County.
Presidio County	Presidio County.
Red River County	Red River County.
Reeves County	Reeves County.
Sabine County	Sabine County.
San Patricio County	San Patricio County.
Shelby County	Shelby County.
Socorro City	Socorro City in El Paso County.
Somervell County	Somervell County.
Starr County	Starr County.
Texarkana City Tex	Texarkana City Tex in Bowie County.
Texas City	Texas City in Galveston County.
Titus County	Titus County.
Tyler County	Tyler County.
Uvalde County	Uvalde County.
Balance of Val Verde County.	Val Verde County less Del Rio City.
Ward County	Ward County.
Balance of Webb County.	Webb County less Laredo City.
Willacy County	Willacy County.
Winkler County	Winkler County.
Zapata County	Zapata County.
Zavala County	Zavala County.
UTAH	
Duchesne County	Duchesne County.
Garfield County	Garfield County.
VERMONT	
Orleans County	Orleans County.
VIRGINIA	
Accomack County	Accomack County.
Bath County	Bath County.
Brunswick County	Brunswick County.
Buchanan County	Buchanan County.
Buena Vista City	Buena Vista City.
Charlotte County	Charlotte County.
Clifton Forge City	Clifton Forge City.
Covington City	Covington City.
Danville City	Danville City.
Dickenson County	Dickenson County.
Lancaster County	Lancaster County.
Lee County	Lee County.
Louisa County	Louisa County.
Lunenburg County	Lunenburg County.
Martinsville City	Martinsville City.
Northumberland County.	Northumberland County.
Norton City	Norton City.
Page County	Page County.
Petersburg City	Petersburg City.
Portsmouth City	Portsmouth City.
Russell County	Russell County.
Smyth County	Smyth County.
South Boston City	South Boston City.
Surry County	Surry County.
Tazewell County	Tazewell County.
Westmoreland County.	Westmoreland County.
Williamsburg City	Williamsburg City.
Wise County	Wise County.
WASHINGTON	
Adams County	Adams County.
Bremerton City	Bremerton City in Kitsap County.
Chelan County	Chelan County.
Clallam County	Clallam County.
Columbia County	Columbia County.
Balance of Cowlitz County.	Cowlitz County less Longview City.
Everett City	Everett City in Snohomish County.
Ferry County	Ferry County.
Franklin County	Franklin County.
Grant County	Grant County.
Grays Harbor County	Grays Harbor County.
Jefferson County	Jefferson County.
Kittitas County	Kittitas County.
Klickitat County	Klickitat County.
Lewis County	Lewis County.
Longview City	Longview City in Cowlitz County.
Mason County	Mason County.
Okanogan County	Okanogan County.
Pacific County	Pacific County.
Pend Oreille County	Pend Oreille County.
Skagit County	Skagit County.
Skamania County	Skamania County.
Stevens County	Stevens County.
Tacoma City	Tacoma City in Pierce County.
Walla Walla City	Walla Walla City in Walla Walla County.
Yakima City	Yakima City in Yakima County.
Balance of Yakima County.	Yakima County less Yakima City.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1995 Through September 30, 1996]

Eligible labor surplus areas	Civil jurisdictions included
WEST VIRGINIA	
Barbour County	Barbour County.
Boone County	Boone County.
Braxton County	Braxton County.
Brooke County	Brooke County.
Calhoun County	Calhoun County.
Clay County	Clay County.
Doddridge County	Doddridge County.
Fayette County	Fayette County.
Gilmer County	Gilmer County.
Grant County	Grant County.
Greenbrier County	Greenbrier County.
Hancock County	Hancock County.
Harrison County	Harrison County.
Huntington City	Huntington City in Cabell County, Wayne County.
Jackson County	Jackson County.
Lewis County	Lewis County.
Lincoln County	Lincoln County.
Logan County	Logan County.
Marion County	Marion County.
Balance of Marshall County.	Marshall County less Wheeling City.
Mason County	Mason County.
McDowell County	McDowell County.
Mercer County	Mercer County.
Mingo County	Mingo County.
Monroe County	Monroe County.
Nicholas County	Nicholas County.
Balance of Ohio County.	Ohio County less Wheeling City.
Parkersburg City	Parkersburg City in Wood County.
Pleasants County	Pleasants County.
Pocahontas County	Pocahontas County.
Preston County	Preston County.
Raleigh County	Raleigh County.
Randolph County	Randolph County.
Ritchie County	Ritchie County.
Roane County	Roane County.
Summers County	Summers County.
Taylor County	Taylor County.
Tucker County	Tucker County.
Tyler County	Tyler County.
Upshur County	Upshur County.
Balance of Wayne County.	Wayne County less Huntington City.
Webster County	Webster County.
Wetzel County	Wetzel County.
Wirt County	Wirt County.
Wyoming County	Wyoming County.
WISCONSIN	
Ashland County	Ashland County.
Clark County	Clark County.
Door County	Door County.
Balance of Douglas County.	Douglas County less Superior City.
Menominee County	Menominee County.
Racine City	Racine City in Racine County.
Rusk County	Rusk County.
Taylor County	Taylor County.
WYOMING	
Balance of Natrona County.	Natrona County less Casper City.

[FR Doc. 95–25267 Filed 10–11–95; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (Pub. L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under Section 250(a) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Director of the Office of Trade Adjustment Assistance (OTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes actions pursuant to paragraphs (c) and (e) of Section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment after December 8, 1993 (date of enactment of Pub. L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Director of OTAA at the U.S. Department of Labor (DOL) in Washington, DC, provided such request is filed in writing with the Director of OTAA not later than October 23, 1995.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of OTAA at the address shown below not later than October 23, 1995.

Petitions filed with the Governors are available for inspection at the Office of the Director, OTAA, ETA, DOL, Room C–4318, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 26th day of September, 1995.

Victor J. Trunzo,

Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received at Governor's office	Petition No.	Articles produced
Shana Knitwear Inc.; Asheboro (Wkrs)	Asheboro, NC	06/07/95	NAFTA–00479	Women's knitwear apparel.
Peerless Company; FMG Timberjack (IAM)	Tuolotion, OR	06/06/95	NAFTA–00480	Trailers and related logging equipment.
Newman & Crebbin (Wkrs)	Klamath Falls, OR	05/31/95	NAFTA–00481	Delivery of logs.
Bill Neubert Log, Inc.; Klamath Falls (Co.)	Klamath Falls, OR	06/06/95	NAFTA–00482	Delivery of logs.
B&G Equipment Co. (Wkrs)	Plumsteadville, PA	06/08/95	NAFTA–00483	Exterminating equipment ie. foggers, foamers, sprayers.
Farah USA Inc. (Wkrs)	El Paso, TX	06/08/95	NAFTA–00484	Garments; shirts, pants, coats.
Levi Strauss & Company; Print Shop (Wkrs)	El Paso, TX	06/09/95	NAFTA–00485	Garment labels.
Equitable Resource Energy Company; Equitable Resources Exploration (Co.).	Kingsport, TN	06/12/95	NAFTA–00486	Exploration of natural gas.
Palliser Grain Company, LTD; U.S. Office (Wkrs)	Great Falls, MT	06/02/95	NAFTA–00487	Wheat.
Rielly Co., Inc. (Co.)	Valatie, NY	06/15/95	NAFTA–00488	Woven cotton fabrics ie. T-shirts, sportswear, pajamas.

APPENDIX—Continued

Petitioner (union/workers/firm)	Location	Date received at Governor's office	Petition No.	Articles produced
Heat Tech, Inc.; aka Heater Wire (Co.)	El Paso, TX	06/19/95	NAFTA–00489	Foil heaters, power cords, powerways, harnesses.
H.H. Cutler; Sewing Plant (Wkrs)	Statesboro, GA	06/16/95	NAFTA–00490	Children's sleepwear and playwear.
Interim Personnel; Valmont Industrial (Wkrs)	El Paso, TX	06/19/95	NAFTA–00491	Sign ballasts.
Trico Industries; Bradford Mfg. Plant (IAM)	Bradford, PA	06/19/95	NAFTA–00492	Oilwell pumping parts.
Waltec American Forging, Inc. (Wkrs)	Port Huron, MI	06/15/95	NAFTA–00493	Forge dies trim dies jig & fixtures, gauges, jaws and cutting tools.
Miniature Precision Components (Wkrs)	Walworth, WI	06/20/95	NAFTA–00494	Bent and barbed plastic tubing, harness assemblies.
Emerson Electric Co.; Motor Div. (Wkrs)	Ava, MO	06/20/95	NAFTA–00495	Fractional horsepower motors.
Transport Support Inc.; Ryder (TEAMSTERS)	Newark, DE	06/20/95	NAFTA–00496	Transport automobiles.
General Dynamics; Convair (Wkrs)	San Diego, CA	06/20/95	NAFTA–00497	Aircraft parts ie. Fuselages.
Gateway Safety Systems (TEAMSTERS)	Michigan City, IN	06/15/95	NAFTA–00498	Seatbelt assemblies.
Tilly Balloon Co. (Co.)	Fall River, MA	06/21/95	NAFTA–00499	Toy balloons.
Occidental Chemical Corp.; Durez Div. (IAM)	North Tonawanda, NY.	05/30/95	NAFTA–00500	Molding compounds.
Wadesboro Manufacturing Co., Inc. (Co.)	Wadesboro, NC	06/26/95	NAFTA–00501	Blazers and suitcoats.
Gerhart Sales (Wkrs)	El Paso, TX	06/26/95	NAFTA–00502	Indigenous crafts ie. sand paintings, mandellas.
Tampella Power Corp. (Wkrs)	Williamsport, PA	06/23/95	NAFTA–00503	Pressure part components for boilers.
Nashua Corporation; Nashua Cartridge Products, Inc. (Co.).	Exetur, NH	06/23/95	NAFTA–00504	Laser printer toner cartridges.
Salmon Intermountain Sawmill Inc.; Sawmill/Planer (Wkrs).	Salmon, ID	06/28/95	NAFTA–00505	Dimension lumber.
R Manufacturing (Wkrs)	Lilly, PA	06/27/95	NAFTA–00506	Dresses and blouses.
Blue Eagle Exploration Inc. (Co.)	Salisbury, NC	06/28/95	NAFTA–00507	Oil and gas.
Kentuckey West Virginia Gas Co. (Co.)	Prestonsburg, KY	06/30/95	NAFTA–00508	Natural gas.
Varco Logging (Wkrs)	Superior, MT	06/30/95	NAFTA–00509	Lumber.
U.S. Industries; Keystone Lighting (Co.)	Hayden Lake, ID	07/03/95	NAFTA–00510	Fluorescent lighting fixtures.
National Oilwell (Wrks)	McAlister, OK	07/05/95	NAFTA–00511	Oilwell pumps.
Cantwell Trucking Inc.; Log Hauling (Wkrs)	Klamath Falls, OR	07/06/95	NAFTA–00512	Transport raw logs.
Telescope Casual Furniture (IUE)	Granville, NY	07/10/95	NAFTA–00513	Casual outdoor furniture.
KGS Systems Inc. (Wkrs)	Harlingen, TX	07/11/95	NAFTA–00514	Trucking operations.
Stride Rite Corp.; Childrens Group (Wkrs)	Fulton, MO	07/10/95	NAFTA–00515	Sandals.
Blue Bell Snack Foods; Western Washington (Wkrs).	Western, WA	07/11/95	NAFTA–00516	Snack foods.
John Chopot Lumber Co. (Co.)	Colville, WA	07/11/95	NAFTA–00517	Dimensional lumber.
Bethlehem Steel Corp.; (various divisions) (UAW)	Bethlehem, PA	07/10/95	NAFTA–00518	Various steel products.
Comptronix Corporation; Colorado Springs (Wkrs)	Colorado Springs, CO.	07/12/95	NAFTA–00519	Electronic equipment.
John Lyon Reload (Co.)	Klickitat, WA	07/12/95	NAFTA–00520	Lumber.
Crown Pacific LTD; Plywood Division (WCIW UBC).	Redmond, OR	07/11/95	NAFTA–00521	Plywood.
AEP Industries (UTWA)	S. Hackensack, NJ	07/12/95	NAFTA–00522	Plastic film.
Paso Del Norte Avionics Inc. (Co.)	El Paso, TX	07/13/95	NAFTA–00523	Airplane maintenance.
Dura Convertible Systems (Co.)	Adrian, MI	07/11/95	NAFTA–00524	Convertible topstacks.
Key Plastics Inc.; Mt. Olive Plant (Wkrs)	Felton, PA	07/17/95	NAFTA–00525	Plastic molded items for automobiles.
USDA Forest Service (Wkrs)	Superior, MT	07/18/95	NAFTA–00526	Forest management plans.
Sauk River Cutting (Co.)	Arlington, WA	07/18/95	NAFTA–00527	Timber.
Portac Inc. of Tacoma; Beaver and Forks Divs. (Wkrs).	Tacoma, WA	07/20/95	NAFTA–00528	Dimensional softwood lumber.
Century Place Inc. (Wkrs)	Salisbury, NC	07/20/95	NAFTA–00529	T-shirts.
Omega News and Advertising Inc.; Norte Newspaper (Wkrs).	El Paso, TX	07/21/95	NAFTA–00530	Newspaper advertising.
Haywood Pool Products; Pool Div. (Co.)	Elizabeth, NJ	07/21/95	NAFTA–00531	Pool lights and plastic valves.
Anchor Glass Corp. (GMPPAWI)	Keyser, WV	07/21/95	NAFTA–00532	Glass containers.
Tempories Agency (Wkrs)	El Paso, TX	07/25/95	NAFTA–00533	Electrical wire.
MCE Technical Services; WPPSS (Wkrs)	Richland, WA	07/25/95	NAFTA–00534	Electrical energy.
Belden Wire & Cable Company; Cord Products Div. (Co.).	Bensenville, IL	07/23/95	NAFTA–00535	Power supply cords and electrical cordsets.
United Technology Motors Systems; Automotive Div. (Wkrs).	Brownsville, TX	07/26/95	NAFTA–00536	Parts for motors.
Vaagen Bros. Lumber Inc.; Colville, Republic and Ione (Co.).	Colville, WA	07/25/95	NAFTA–00537	Lumber.
Blairsville Machine Products Co. (Wkrs)	Blairsville, PA	07/24/95	NAFTA–00538	Military tank parts.

APPENDIX—Continued

Petitioner (union/workers/firm)	Location	Date received at Governor's office	Petition No.	Articles produced
500 Fashion Group (ACTWU)	Northhampton, PA	07/24/95	NAFTA–00539	Men's sport coats and suits.
Exide; Hamburg (USWA)	Hamburg, PA	07/25/95	NAFTA–00540	Automobile batteries (industrial).
Gould Electronics Inc.; Gould Sawmut (Wkrs)	Marble Falls, TX	07/31/95	NAFTA–00541	Fuse blocks, power blocks, and mini blocks.
Oregon Natural Gas Development Corp. (Wkrs)	Portland, OR	07/31/95	NAFTA–00542	Natural gas.
Panhandle Eastern Corp,; Associated Gas Services Co. (Wkrs).	Houston, TX	07/31/95	NAFTA–00543	Natural gas.
National Tea Co. Inc.; National Supermarkets (Wkrs).	Northern, LA	07/31/95	NAFTA–00544	Groceries.
Walker Equipment Corp.; Division of Plantronics (Co.).	Ringgold, GA	08/02/95	NAFTA–00545	Telephone handsets.
American Safety Razor (USWA)	Staunton, VA	08/02/95	NAFTA–00546	Razors.
ESCO; Electronics & Space Corp. (IUEW)	St. Louis, MO	08/03/95	NAFTA–00547	Electrical harnesses and circuit boards.
Basler Electric Co. (Wkrs)	Huntingdon, TN	08/03/95	NAFTA–00548	Small transformer.
American Standard Co.; U.S. Plumbing Products (Co.).	Hamilton, NJ	08/04/95	NAFTA–00549	China plumbing products.
Jakel Inc. (Wkrs)	Highland, IL	08/08/95	NAFTA–00550	Subfractional electric motors.
Balcron Oil Company (Co.)	Billings, MT	08/07/95	NAFTA–00551	Exploration for oil and natural gas.
Zenith Electronics Corp.; Plant 43 (Wkrs)	El Paso, TX	08/08/95	NAFTA–00552	Televisions; completed and parts.
Fulton Brewery; Div. of Miller Brewing Co. (IAMAW).	Milwaukee, WI	08/09/95	NAFTA–00553	Beer.
P&M Tile Inc. (Co.)	Mt. Gilead, NC	08/10/95	NAFTA–00554	Glazed ceramic floor tile.
AMCO Mfg. Corp.; Adrian Div. (Co.)	Adrian, MI	08/09/95	NAFTA–00555	Automotive convertible top covers.
Owens-Brockway; Plant 10 (GMP)	Atlanta, GA	08/09/95	NAFTA–005556	Glass containers.
Paul & Robert Wampler Inc.; Logging Div. (Wkrs)	Klamath Falls, OR	08/10/95	NAFTA–00557	Logs.
Hampton Lumber Sales Co.; Special Products Div. (Wkrs).	Portland, OR	08/10/95	NAFTA–00558	Lumber product design.
American White Cross Inc. (Co.)	Dayville, CT	08/09/95	NAFTA–00559	Cosmetic machinery.
ELSO Corp. (Wkrs)	Huntingdon, PA	08/11/95	NAFTA–00560	Gold contacts and plastic insulators for electronic products.
IMC Corp. of America; Williams Cabinent Div. (Wkrs).	Sutton, WV	08/11/95	NAFTA–00561	Sewing machine cabinents.
Don Shapiro Ind. (Co.)	El Paso, TX	08/14/95	NAFTA–00562	Men's and women's jeans and shorts.
Thompson Steel Pipe Co.; Inner City Products (USWA).	Princeton, KY	08/14/95	NAFTA–00563	Propane tanks.
Grumman Allied; LLV Div. (Wkrs)	Montgomery, PA	08/15/95	NAFTA–00564	Postal vehicles.
Jeld-Wen of Bend (Co.)	Bend, OR	08/15/95	NAFTA–00565	Wood products ie. door frames and casings.
Leslie Fay Co. Inc. (Wkrs)	New York,NY	08/14/95	NAFTA–00566	Apparel.
Roadware Corporation; PA Roadware Corp. (Wkrs).	Kylertown, PA	08/16/95	NAFTA–00567	ARANs; Automatic Road Analyzers.
Kendall Med-West; KHPC Med-Surg (Wkrs)	Salt Lake City, UT	08/16/95	NAFTA–00568	Medical kits for anesthesia procedures.
Peoples Gas Light & Coke Co.; Gas Operations (SEIU).	Elwood, IL	08/15/95	NAFTA–00569	Natural gas.
Gaylord Container (Wkrs)	Westlaco, TX	08/21/95	NAFTA–00570	Corragated boxes.
International Verifact Inc; (formerly Soricon) (Wkrs).	Boulder, CO	08/22/95	NAFTA–00571	Check readers.
Owens-Brockway; Sennett Plant (IAMAW)	Auburn, NY	08/22/95	NAFTA–00572	Glass bottles.
Sam's Wholesale Club; 18–8250 (Wkrs)	McAllen, TX	08/25/95	NAFTA–00573	Wholesale grocery.
A–1 Broom & Supply Co.; #01 (Wkrs)	Los Angeles, CA	08/25/95	NAFTA–00574	Brooms and mops.
AT&T Global Information Systems; Repair Depot (Wkrs).	Springfield, MA	08/28/95	NAFTA–00575	Self service products ie. ATMs.
Adventek Corporation; Nylomatic (Wkrs)	Fallsington, PA	08/28/95	NAFTA–00576	Molded plastic OEM parts.
Accuride Corp.; Henderson (UAW)	Henderson, KY	08/28/95	NAFTA–00577	Truck wheels and rims.
Bike Athletic Co.; Knoxville Plant (NITE)	Knoxville, TN	08/28/95	NAFTA–00578	Sports apparel.
Woodwork Corp. of America; WCA Industries Inc. (UBCJA).	Merrill, WI	08/30/95	NAFTA–00579	Wood products.
Lakeview Lumber Products (Co.)	Lakeview, OR	08/30/95	NAFTA–00580	Lumber products.
Max Kahn Curtain Corp. (Co.)	Evergreen, AL	08/31/95	NAFTA–00581	Curtains.
Creative Forests Products (Co.)	Salmon, ID	08/28/95	NAFTA–00582	Forest products.
Copper Range Co. (USWA)	White Pine, MI	08/30/95	NAFTA–00583	Copper ranges.
Great American Knitting Mills; Bidermann Industries (Co.).	Scotland Neck, NC	09/01/95	NAFTA–00584	Socks.

APPENDIX—Continued

Petitioner (union/workers/firm)	Location	Date received at Governor's office	Petition No.	Articles produced
Kaiser Porcelain US Inc.; Kaiser Porcelain Co. LTD (Wkrs).	Niagara Falls, NY ..	08/09/95	NAFTA–00585	Porcelain products; warehousing and storage.
Outdoor of Michigan; Gannett Co. Inc. (Co.)	Detroit, MI	08/22/95	NAFTA–00586	Vinyl coverings for billboards.
Motor Wheel Corp.; Ypsilanti Plant (UAW)	Ypsilanti, MI	08/30/95	NAFTA–00587	Wheel parts.
Kerotest Mfg. Corp. (USWA)	Pittsburgh, PA	09/05/95	NAFTA–00588	Steel and plastic gas and oil valves.
Howard Industries (UPIU)	Milford, IL	09/07/95	NAFTA–00589	Electric motors and fans.
Davol Inc.; C.R. Bard Inc. (Wkrs)	Mansfield, MA	09/07/95	NAFTA–00590	Surgical and medical equipment.
Go Dan Industries; VT/HE Mfg. (Co.)	Dallas, TX	09/11/95	NAFTA–00591	Automotive radiator cores.
Lincoln Brass Works, Inc.; Waynesboro Div. (IAMAW).	Waynesboro, TN	09/12/95	NAFTA–00592	Brass valves and assemblies.
IDEA Associate (Wkrs)	Tempe, AZ	09/13/95	NAFTA–00593	Controllers and terminals.
W.R. Grace & Co.; Construction Products (Co.)	Portland, OR	09/13/95	NAFTA–00594	Specialty vermiculite products.
U & H Starfleet (Wkrs)	Spring, TX	09/14/95	NAFTA–00595	Ambulances, emergency vehicles, and medical equipment.
Oxford Industries; Oxford Shirting Div. & Oxford of Alamo (Co.).	Vidalia, GA	09/14/95	NAFTA–00596	Men's dress shirts.
Gimpel Corp. (Wkrs)	Langhorne, PA	09/14/95	NAFTA–00597	Iron and steel valves.
Brown Group, Inc.; Brown Shoe Co. (Wkrs)	Pocahontas, AR	09/15/95	NAFTA–00598	Shoes.
Pennsylvania Electric Motor Service (Wkrs)	Erie, PA	09/15/95	NAFTA–00599	Electrical motor coils.
Thompson Multi Media; Thompson Consumer Electronics (IBEW).	Bloomington, IN	09/15/95	NAFTA–00600	Televisions.
Abbott and Co.; ABEPP Acquisition Corp. (Co.)	Lafayette, GA	09/15/95	NAFTA–00601	Wiring harnesses.
ConAgra Flour Milling Co.; Flour Milling Div. (AFGM).	Omaha, NE	09/18/95	NAFTA–00602	Duram wheat.
The Columbia Corp.; Chatham Paper Mill and Kinderhook (Co.).	Chatham, NY	09/18/95	NAFTA–00603	Recycled paperboard products.
Fairfax Photographic LTD.; Fairfax Inc. (Wkrs)	Buffalo, NY	09/18/95	NAFTA–00604	Photographic materials.
Andover-Togs Inc.; Dover Div. (Wkrs)	South Boston, VA ..	09/18/95	NAFTA–00605	Children's apparel.
Pro Log Inc. (Wkrs)	Lakeview, OR	09/18/95	NAFTA–00606	Lumber products.
Loral Corp.; Defense Systems—Eagan (Co.)	Pueblo, CO	09/19/95	NAFTA–00607	Cables for RETS program.
Computer Memory Disk (Wkrs)	Eugene, OR	09/19/95	NAFTA–00608	Computer products.
Dow Chemical Co.; Corporate Aviation (Wkrs)	Freeland, MI	09/11/95	NAFTA–00609	Aviation pilots.
Rowley Lumber and Hardware (Wkrs)	Hudson, MI	09/14/95	NAFTA–00610	Lumber products.
Square D Company; Distribution Products (IBEW)	Lexington, KY	09/20/95	NAFTA–00611	Load centers and switches.
Owens-Brockway; Closures and Specialty Products (TEAMSTERS).	N. Riverside, IL	09/19/95	NAFTA–00612	Plastic sprayers.
Sierra Western Int'l Apparel Inc. (Co.)	El Paso, TX	09/21/95	NAFTA–00613	Women's jeans.
Roseart Lamp Shades Inc. (IBEW)	Bronx, NY	09/21/95	NAFTA–00614	Wire frames for shades and lamps.
Montello Products Co.; Montello Plant (Wkrs)	Motello, WI	09/21/95	NAFTA–00615	Wire harnesses.
Montana Power Co.; Colstrip Project Div. (IBEW) .	Colstrip, MT	09/22/95	NAFTA–00616	Electrical power.
Johnson Controls Inc.; Control Products Div. (IBEW).	Goshen, IN	09/22/95	NAFTA–00617	Temperature and pressure controls.

[FR Doc. 95–25265 Filed 10–11–95; 8:45 am]
BILLING CODE 4510–30–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 95–092]

NASA Advisory Council (NAC), Technology and Commercialization Advisory Committee (TCAA); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Technology and Commercialization Advisory Committee.

DATES: October 25, 1995, 8:30 a.m. to 3:00 p.m.; and October 26, 1995, 8:00 a.m. to 2:00 p.m.

ADDRESSES: Jet Propulsion Laboratory, National Aeronautics and Space Administration, Room 180–101, 4800 Oak Grove Drive, Pasadena, CA 91109–8099.

FOR FURTHER INFORMATION CONTACT:

Mr. Gregory Reck, Code X, National Aeronautics and Space Administration, Washington, DC 20546 (202/358–4700).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Reusable Launch Vehicle Program Review

—Discussion of Peer Review

—Overviews of Microdevices Laboratory and New Millennium

—Human Exploration and Development Discussion

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: October 4, 1995.

Danalee Green,

Chief, Management Controls Office, National Aeronautics and Space Administration.

[FR Doc. 95–25213 Filed 10–11–95; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

Implementation Guidance for the Rulemaking on Radiological Criteria for Decommissioning; Availability of World-Wide Web Site

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability of a world-wide web site to support interactive discussions related to development of implementation guidance for the decommissioning rulemaking.

SUMMARY: This notice is to advise the public that the Nuclear Regulatory Commission (NRC) has established an interactive web page on the Internet that will increase public access to the guidance as it is being developed by NRC staff. Specifically, the web page supports interactive discussions related to development of implementation guidance for the NRC's rulemaking on radiological criteria for decommissioning. The web page is open to the public and acts as a forum for discussions with NRC staff regarding implementation issues. The web page will be devoted to the further development of useful implementation guidance and users will have the opportunity to review and comment on staff documents as they are developed. Comments received will be available for review by other users.

FOR FURTHER INFORMATION CONTACT: Christine Daily, Office of Research, Mail Stop T–9C24, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6026.

SUPPLEMENTARY INFORMATION: A notice of availability of the enhanced participatory rulemaking electronic bulletin board and 800 number was published in the Federal Register on July 13, 1993 (58 FR 37760). The purpose of the electronic bulletin board was to afford public access to the enhanced participatory rulemaking process being employed to develop radiological criteria for decommissioning.

The NRC has now set up an interactive web page on the Internet to increase public access to the development of guidance documents related to radiological criteria for decommissioning. This interactive web page will facilitate technical discussions regarding implementation issues associated with the decommissioning rulemaking and will allow members of the public as well as people with expertise and experience in areas related to pathways modeling, dose assessment, performance of site surveys, and instrumentation to provide information and assistance to the NRC in the development of implementation guidance for the final decommissioning rule.

For individuals without current access to a computer with a connection to the world wide web, area college or university libraries, or local public libraries, may offer access to the internet and the world wide web. To connect to this web page, point the web browser to http://www.nrc.gov/news.html/ and select the link under the ''Decommissioning Implementation'' heading in ''What's New'', or link directly via http://orsun.saic.com:8086/cgi-bin/HyperNews/get/home.html

If you have any questions or comments about the interactive web page, please leave them in the comments section on the main page. This section works like e-mail and will be reviewed at least once each day by the NRC staff.

Dated at Rockville, Maryland, this 4th day of October, 1995.

For the Nuclear Regulatory Commission.

Bill M. Morris,

Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 95–25246 Filed 10–11–95; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36336; File No. SR–NASD–95–44]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Small Order Execution System Tier Size Classifications

October 4, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 2, 1995, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is submitting this filing to effectuate The Nasdaq Stock Market, Inc.'s (''Nasdaq'') periodic reclassification of Nasdaq National Market (''NNM'') securities into appropriate tier sizes for purposes of determining the maximum size order for a particular security eligible for execution through Nasdaq's Small Order Execution System (''SOES'') and the minimum quote size requirements for Nasdaq market makers in NNM securities. Specifically, under the proposal, 900 NNM securities will be reclassified into a different SOES tier size effective November 13, 1995. Since the NASD's proposal is an interpretation of existing NASD rules, there are no language changes.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the rule change is to effectuate Nasdaq's periodic reclassification of NNM securities into appropriate tier sizes for purposes of determining the maximum size order for a particular security eligible for execution through SOES and the minimum quote size requirements for Nasdaq market makers in NNM securities. Nasdaq periodically reviews the SOES tier size applicable to each NNM security to determine if the trading characteristics of the issue have changed so as to warrant a tier size adjustment. Such a review was conducted as of March 31, 1995, using the following established criteria: [1]

[1] The classification criteria is set forth in footnote 1 to Section (a)(7) of the SOES Rules and Section 2(a) of Part V of Schedule D to the NASD By-Laws.

NNM securities with an average daily non-block volume of 3,000 shares or more a day, a bid price less than or equal to $100, and three or more market makers are subject to a minimum quotation size requirement of 1,000 shares; [2]

NNM securities with an average daily non-block volume of 1,000 shares or more a day, a bid price less than or equal to $150, and two or more market makers are subject to a minimum quotation size requirement of 500 shares and a maximum SOES order size of 500 shares; and

NNM securities with an average daily non-block volume of less than 1,000 shares a day, a bid price less than or equal to $250, and less than two market makers are subject to a minimum quotation size requirement of 200 shares and a maximum SOES order size of 200 shares.

Pursuant to the application of this classification criteria, 900 NNM securities will be reclassified effective November 13, 1995. These 900 NNM securities are set out in the NASD's Notice To Members 95–91 (October, 1995).

In ranking NNM securities pursuant to the established classification criteria, Nasdaq followed the changes dictated by the criteria with two exceptions. First, an issue was not moved more than one tier size level. For example, if an issue was previously categorized in the 1,000-share tier size, it would not be permitted to move to the 200-share tier even if the reclassification criteria showed that such a move was warranted. In adopting this policy, Nasdaq was attempting to maintain adequate public investor access to the market for issues in which the tier size level decreased and help ensure the ongoing participation of market makers in SOES for issues in which the tier size level increased. Second, for twenty securities priced below $1 where the reranking called for a reduction in tier size, Nasdaq determined not to recommend a decline in tier size.[3]

The NASD believes that the proposed rule change is consistent with Section 15A(b)(6) of the Act. Section 15A(b)(6) requires, among other things, that the rules of the NASD governing the operation of The Nasdaq Stock Market be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market. The NASD believes that the reassignment of NNM securities within SOES tier size levels and minimum quotation size levels will further these ends by providing an efficient mechanism for small, retail investors to execute their orders on Nasdaq and providing investors with the assurance that they can effect trades up to a certain size at the quotations displayed on Nasdaq.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective immediately pursuant to Section 19(b)(3)(A)(i) of the Act and subparagraph (e) of Rule 19b–4 thereunder because the reranking of NNM securities into appropriate SOES tier sizes was done pursuant to the NASD's stated policy and practice with respect to the administration and enforcement of two existing NASD rules. Further, in the SOES Tier Size Order, the Commission requested that the NASD provide this information as an interpretation of an existing NASD rule under Section 19(b)(3)(A) of the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the File No. SR–NASD–95–44 and should be submitted by November 2, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 95–25251 Filed 10–11–95; 8:45 am]

BILLING CODE 8010–01–M

[2] On December 23, 1993, the Securities and Exchange Commission approved a reduction in the maximum SOES tier size to 500 shares from 1,000 shares on an interim basis. See Securities Exchange Act Release No. 33377 (Dec. 23, 1993), 58 FR 69419. On March 28, 1995, the effectiveness of this rule lapsed and the largest SOES tier size returned to 1,000 shares.

[3] In addition, 33 of the NNM securities subject to the SOES tier size reranking procedures on March 31, 1995 are no longer NNM securities.

[4] 17 CFR 200.30–3(a)(12)(1989).

[Rel. No. IC–21393; 811–7101]

Alexander Hamilton Funds; Notice of Application

October 4, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Alexander Hamilton Funds.

RELEVANT ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring it has ceased to be an investment company.

FILING DATES: The application was filed on September 5, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 30, 1995, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, Federated Investors Tower, Pittsburgh, PA 15222–3779.

FOR FURTHER INFORMATION CONTACT: Marianne H. Khawly, Staff Attorney, at (202) 942–0562, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a registered open-end management investment company under the Act and is organized as a business trust under the laws of the Commonwealth of Massachusetts. On October 4, 1993, applicant filed a Notification of Registration on Form N–8A pursuant to section 8(a) of the Act and a registration statement on Form N–1A under section 8(b) of the Act and under the Securities Act of 1933. On February 10, 1994, the registration statement was declared effective and applicant commenced its initial public offering on that date. Applicant consists of three series: Alexander Hamilton Equity Growth and Income Fund (''Equity Growth and Income Fund''); Alexander Hamilton Government and Income Fund (''Government and Income Fund''); and Alexander Hamilton Municipal Income Fund (''Municipal Income Fund'') (each, a ''Series'').

2. On November 28, 1994, applicant's board of trustees unanimously determined that applicant's continuation was no longer in the best interest of applicant or its shareholders. The board determined that applicant's shareholders would be better served by a liquidation of applicant's assets. The board voted to approve a plan of liquidation whereby applicant's shareholders would be contacted and asked to redeem their shares by November 29, 1994 (the ''Liquidation Date'').

3. On November 28, 1994, Equity Growth and Income Fund had 507,266.170 shares of beneficial interest outstanding. At such time, Equity Growth and Income Fund had an aggregate and per share net asset value of $4,805,222.11 and $9.48, respectively. On or before the Liquidation Date, Equity Growth and Income Fund sold its portfolio securities at fair market value. Brokerage commissions totaling $732 were paid in connection with the sale. On or before the Liquidation Date, the holder of 99.8% of Equity Growth and Income Fund's shares, Alexander Hamilton Life Insurance Company (''AHLIC''), parent of Alexander Hamilton Capital Management, Inc., applicant's investment adviser (the ''Adviser''), voluntarily redeemed its shares at the redemption date's net asset value.

4. On the November 28, 1994, Government Income Fund had 532,475.146 shares of beneficial interest outstanding. At such time, Government Income Fund had an aggregate and per share net asset value of $4,793,902.94 and $9.00, respectively. On or before the Liquidation Date, Government Income Fund sold its portfolio securities at fair market value. No brokerage commissions were paid in connection with the sale. On or before the Liquidation Date, the holder of 98% of Government Income AHLIC, voluntarily redeemed its shares at the redemption date's net asset value.

5. On the November 28, 1994, Municipal Income Fund had 551,300.772 shares of beneficial interest outstanding. At such time, Municipal Income Fund had an aggregate and per share net asset value of $4,714,748.52 and $8.55, respectively. On or before the Liquidation Date, Municipal Income Fund sold certain of its portfolio securities at fair market value and the remaining securities were disposed of in accordance with rule 17a–7. No brokerage commissions were paid in connection with the sale. On or before the Liquidation Date, the holder of 99.9% of Government Income Fund's shares, AHLIC, voluntarily redeemed its shares in kind or at the redemption date's net asset value.

6. On the Liquidation date, applicant's administrator, Federated Administrative Services (the ''Administrator''), the remaining shareholder of each series, adopted a resolution approving applicant's termination.

7. No outside legal or accounting fees were incurred in connection with the liquidation. Any expenses incurred in connection with applicant's liquidation were waived or paid by the Administrator pursuant to its administrative agreement. All organizational and operational expenses will be paid by the Adviser.

8. As of the date of the application, applicant had no assets, debts, or shareholders. Applicant is not a party to any litigation or administrative proceeding. Applicant is neither engaged in nor proposes to engage in any business activities other than those necessary for the winding-up of its affairs.

9. Applicant will terminate its existence as a business trust under Massachusetts law.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–25252 Filed 10–11–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–21397; File No. 812–9512]

Nationwide Life Insurance Company, et al.

October 5, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Nationwide Life Insurance Company (''NWL''), Nationwide Life and Annuity Insurance Company (''NWLAIC'') (together, the ''Companies''); Nationwide Variable Account, Nationwide Variable Account II, Nationwide Variable Account 3, Nationwide Variable Account 4, Nationwide Variable Account 5, Nationwide Variable Account 6, Nationwide Multi-Flex Variable Account, Nationwide Fidelity Advisor Variable Account (together, the ''NWL Accounts''); Nationwide VA Separate Account-A, Nationwide VA Separate Account-B, Nationwide VA Separate Account-C (together, the ''NWLAIC Accounts;'' the NWL Accounts and the NWLAIC Accounts are herein collectively referred to as the ''Existing Accounts''); Fidelity Investments Institutional Services Company, Inc. (''Fidelity''); and Nationwide Financial Services, Inc. (''NFS'').

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act granting an exemption from sections 26(a)(2)(C) and 27(c)(2) of the Act.

SUMMARY OF APPLICATION: Applicants request an order permitting NWL and NWLAIC to deduct mortality and expense risk charges from the assets of certain separate accounts that fund certain group or individual deferred variable annuity contracts.

FILING DATES: The application was filed on March 6, 1995, and was amended on August 16, 1995. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request

a hearing by writing to the SEC's Secretary and serving applications with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 30, 1995, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549; NWL and NWLAIC, One Nationwide Plaza, Columbus, Ohio 43216; and Fidelity, 82 Devonshire Street, Boston, Massachusetts 021090.

FOR FURTHER INFORMATION CONTACT: Sarah A. Wagman, Staff Attorney, at (202) 942–0654, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application may be obtained for a fee form the SEC's Public Reference Branch.

Applicants' Representations

1. NWL and NWLAIC are stock life insurance companies incorporated under Ohio law. NWLAIC is a wholly-owned subsidiary of NWL.

2. The NWL Accounts were established by NWL, and the NWLAIC Accounts by NWLAIC, to fund certain group or individual deferred variable annuity contracts, including the contracts described in the application the (''Subject Contracts''). The first Subject Contract (''Subject Contract No. 1'') is funded through the Nationwide Variable Account. The second Subject Contract (''Subject Contract No. 2'') is funded through Nationwide VA Separate Account-B. The third Subject Contract (''Subject Contract No. 3'') is funded through Nationwide Fidelity Advisory Variable Account.

3. The Existing Accounts are registered with the SEC as unit investment trusts under the Act. Applicants request that the relief sought herein extent to all future separate accounts (''Future Accounts''; together with the Existing Accounts, the ''Separate Accounts'') which may be established by NWL or NWLAIC for the purpose of funding the Subject Contracts and any contracts established by NWL or NWLAIC in the future which will be substantially similar in all material respects to Subject Contracts Nos. 1, 2, or 3 (''Future Contracts;'' together with the Subject Contracts, the ''Contracts''). Future Contracts established under any Existing Account will be offered as separate classes of securities under that Existing Account. The Contracts shall be registered as securities under the Securities Act of 1933.

4. The Contracts may be sold as non-tax qualified contracts or as Individual Retirement Annuities qualifying for special tax treatment under section 408(b) of the Internal Revenue Code of 1986 (the ''Code''). The Contracts also may be sold as tax-qualified contracts purchased and used in connection with retirement plans under section 401 of the Code, or as tax-sheltered annuities under section 403(b) of the Code. Certain Contracts may qualify for special tax treatment under section 408(a) of the Code.

5. Fidelity, a registered broker-dealer under the Securities Exchange Act of 1934 and a member of the National Association of Securities Dealers, Inc. (the ''NASD''), is the principal underwriter for Contracts funded through the Nationwide Fidelity Advisor Variable Account. NFS, a registered broker-dealer under the Securities Exchange Act of 1934 and a member of the NASD, is the principal underwriter for Contracts funded through the Nationwide Variable Account and the Nationwide VA Separate Account-B. Applicants request that the relief sought herein extend to any other broker-dealer and NASD member which may serve as the principal underwriter for the Contracts.

6. Purchase payments under the Contracts will be allocated to the Separate Accounts and, through a number of subaccounts, will be invested in shares of various mutual funds, as specified in the application. The minimum initial purchase payment for Subject Contracts Nos. 1, and 2 is $15,000. Subsequent purchase payments, if any, must be at least $5,000 each under Subject Contract No. 1, and at least $1,000 each under Subject Contract No. 2. The minimum initial purchase payment for Subject Contract No. 3 is $5,000. Subsequent purchase payments, if any, must be at least $1,000 each. Future Contracts may have greater or lesser minimum initial and subsequent purchase payments.

7. At any time prior to annuitization, the Contract owner may select one of three annuity payment options, each of which provides for a series of annuity payments commencing on the annuitization date. Each Contract also provides for a death benefit if the annuitant dies during the accumulation period. The death benefit, if the annuitant dies prior to the annuitization date, and prior to his or her eighty-sixth birthday, is the greater of: (a) The sum of all purchase payments made under the Contract less any amounts surrendered, (b) the sum of the value of all Separate Account accumulation units attributable to the Contract plus any amount held under the Contract in the general account of the Companies (the ''Contract Value''), or (c) the Contract Value as of the most recent five-year Contract anniversary, less any amounts surrendered since such anniversary. If the annuitant dies after the annuitization date, the death benefit (if any) will be as specified under the annuity payment option elected. If the annuitant dies after his or her eighty-sixth birthday, the death benefit is limited to the Contract Value.

8. The Companies will charge against the Contract Value the amount of any premium taxes levied by a state or any other governmental entity upon purchase payments received by the company. Premium tax rates currently range from approximately 0% to 3.5%. The Companies currently deduct such charges from a Contract owner's Contract Value either: (i) At the time the Contract is surrendered, (ii) at annuitization, or (iii) in those states that so require, at the time purchase payments are made to the Contract.

9. The Companies permit unlimited transfers among the funds under each of the Subject Contracts. No fees or charges are currently imposed for such transfers. The Companies, however, reserve the right to impose a maximum fee of $10 per transfer under Future Contracts.

10. The Companies deduct, during both the accumulation and annuitization periods, administration charges of 0.15% (for Subject Contract No. 1) and 0.20% (for Subject Contract No. 2) of the daily net assets of the Nationwide Variable Account and Nationwide VA Separate Account–B, respectively. NWL does not assess any administration charge with respect to Subject Contract No. 3. The administration charge is an amount not greater than expenses without profit actually incurred and directly attributable to services provided by NWL and NWLAIC, respectively. The Companies assess the administration charges in reliance on rule 26a–1 of the Act and may, with respect to Future Contracts that are substantially similar in all material respects to either Subject Contract No. 1 or Subject Contract No. 2, assess administration charges greater than those imposed under Subject Contracts Nos. 1 and 2. Any such

administration charges will be assessed in accordance with rule 26a–1(b), and the Companies shall monitor the proceeds of the administration charge, and other similar administrative or contract maintenance charges, including any transfer fee, to ensure that they do not exceed expenses without profit. Applicants represent that any administrative charge, contract maintenance charge, or transfer fee shall not be increased during the life of a Contract. The Companies believe that the administration charges will yield an amount considerably less than the Companies' current and projected administrative costs.

11. No sales charge is deducted from purchase payments made under the Contracts. However, a contingent deferred sales charge (''CDSC'') may be assessed by NWL or NWLAIC if part or all of the Contract Value is withdrawn. Currently, a CDSC is only imposed under Subject Contract No. 1. The CDSC is calculated by multiplying the purchase payments that are withdrawn by a percentage, according to the following schedule:

Number of completed years from the date of purchase payment	CDSC percentage
0	7
1	6
2	5
3	4
4	3
5	2
6	1
7	0

For purposes of imposing the CDSC, purchase payments are considered to be withdrawn on a first-in, first-out basis, and purchase payments are considered to be withdrawn before earnings thereon. Applicants believe that the proceeds from the imposition of the CDSC may not be sufficient to cover all sales expenses. With respect to Future Contracts substantially similar in all material respects to Subject Contract No. 1, applicants reserve the right to impose a CDSC up to 9%, in accordance with rule 6c–8(b)(1).

12. Under Subject Contract No. 1, each Contract year the annuitant may withdraw, without the imposition of a CDSC, an amount equal to 10% of the total sum of all purchase payments made up to the time of withdrawal, less any purchase payments previously withdrawn that were subject to the CDSC. The CDSC-free withdrawal privilege also may be exercised pursuant to a systematic withdrawal program, under which the annuitant may withdraw each Contract year, without the imposition of a CDSC, an amount up to the greater of (a) 10% of the total sum of all purchase payments made up to the time of withdrawal, less any purchase payments previously withdrawn (the ''10% Withdrawal Privilege''), or (b) the specified percentage of the Contract Value based on the annuitant's age, as follows:

Annuitant's age	Percentage of contract value
Under 59–½	5
59–½ to 70½	7
70–½ to 75	9
75 and over	13

If total amounts withdrawn in any Contract year exceed the CDSC-free amount as calculated in connection with the systematic withdrawal privilege, the annuitant may only withdraw, without the imposition of a CDSC, an amount equal to the 10% Withdrawal Privilege. The annuitant may elect to withdraw such CDSC-free amounts only once each Contract year.

13. The Companies intend to assess mortality and expense risk charges against the assets of the Separate Accounts. The aggregate mortality and expense risk charges are equal (for Subject Contracts Nos. 1 and 2), on an annual basis, to 1.25% of the net asset value of the Separate Accounts. Of this amount, 0.80% is attributable to mortality risks, and 0.45% is attributable to expense risks. With respect to Subject Contract No. 3, NWL assesses a mortality risk charge equal, on an annual basis, to 0.80% of the net asset value of the Separate Accounts, and does not assess an expense risk charge. With respect to Future Contracts, the Companies reserve the right to assess a maximum mortality risk charge of 0.95% of the daily net assets of the Separate Accounts associated with Future Contracts, subject to obtaining an appropriate SEC order. The mortality and expense risk charges are guaranteed not to increase for the duration of a Contract.

14. The mortality risk the Companies assume is twofold: (a) the annuity risk of guaranteeing to make monthly payments for the lifetime of the annuitant regardless of how long the annuitant may live, and (b) assuming the risk of a guaranteed minimum death benefit. The annuity risk is present in the form of annuity purchase rates that are guaranteed at issue for the life of the Contract. There is also the risk that the average life expectancy of the entire population may grow longer. The Companies assume an expense risk in connection with their guarantee that they will not increase annual contract charges regardless of actual expenses incurred.

15. If the mortality and expense risk charges are insufficient to cover the actual costs of the mortality and expense risks, the loss will be borne by the Companies. Conversely, if the mortality and expense risk charges prove more than sufficient, the expense will be a profit to the Companies. In such a situation, the profit will become part of the general account surplus of either NWL or NWLAIC, depending on which is the issuing company, and may be used to compensate each Company for unrecovered distribution expenses.

Applicant's Legal Analysis

1. Applicants request an exemption under section 6(c) of the Act from sections 26(a)(2)(C) and 27(c)(2) of the Act to permit the deduction of mortality and expense risk charges from the assets of the Separate Accounts under the Contracts.

2. Sections 26(a)(2)(C) and 27(c)(2), in relevant part, prohibit a principle underwriter for, or depositor of, a registered unit investment trust from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, on such certificates are deposited with a qualified trustee or custodian, within the meaning of section 26(a)(1), and are held under arrangements that prohibit any payment to the depositor or principal underwriter except a reasonable fee, as the Commission may prescribe, for performing bookkeeping and other administrative duties normally performed by the trustee or custodian. The Companies' deduction of mortality and expense risk charges from the assets of the Separate Accounts may be deemed to be a payment prohibited by sections 26(a)(2)(C) and 27(c)(2).

3. Section 6(c) of the Act authorizes the Commission, by order upon application, to conditionally or unconditionally grant an exemption from any provision of the Act, or any rule or regulation promulgated thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants request an exemption under section 6(c) from sections 26(a)(2)(C) and 27(c)(2) to permit the issuance of Contracts subject to the proposed mortality and expense risk charges. Applicants believe that the proposed mortality and expense risk charges on the Subject Contracts and

any Future Contracts funded through Existing or Future Accounts meet the standards of sections 6(c). Applicants believe that any future request for relief with respect to any Future Contract would be substantively and materially the same as the relief sought herein. Applicants believe that the requested relief would eliminate the need for the filing of redundant exemptive applications or amendments, thereby reducing administrative expenses, maximizing efficient use of resources and, thus, promoting competitiveness in the variable annuity market. The delay and expense of repeatedly seeking exemptive relief would impair the Companies' ability to take advantage of business opportunities as they arise.

5. The Companies believe that the level of the mortality and expense risk charges is within the range of industry practice for comparable annuity products and is reasonable in relation to the risks assumed under the Contracts. This representation is based upon the Companies' analysis of publicly available information regarding other insurance companies of similar size and risk ratings offering similar products. The Companies will maintain at their administrative offices, made available to the SEC upon request, memoranda setting forth in detail the products analyzed in the course of, and the methodology and results of, their comparative review.

6. The Companies represent that, in connection with Future Contracts (substantially similar in all material respects to Subject Contracts Nos. 1 and 2 if a mortality and expense risk charge is imposed; Subject Contract No. 3 if only a mortality risk charge is imposed), any mortality and expense risk charges assessed shall be within the range of industry practice for comparable annuity products and shall be reasonable in relation to the risks assumed under the Contracts. This representation will be based upon the Companies' analysis of publicly available information regarding other insurance companies of similar size and risk ratings offering similar products. The Companies will maintain at their administrative offices, made available to the SEC upon request, memoranda setting forth in detail the products analyzed in the course of, and the methodology and results of, their comparative review.

7. The Companies believe that there is a reasonable likelihood that this distribution financing arrangement will benefit Existing Accounts and Contract owners. The basis of this conclusion is set forth in memoranda maintained by the Companies at their administrative offices, made available to the SEC upon its request.

8. Applicants represent that, with respect to Future Contracts that shall be substantially similar in all material respects to Subject Contracts Nos. 1, 2, or 3, the Companies shall determine that there is a reasonable likelihood that this distribution financing arrangement will benefit Future or Existing Accounts and Future Contract owners. The basis of this conclusion will be set forth in memoranda maintained by the Companies at their administrative offices, made available to the SEC upon its request.

9. Applicants represent that investments of the Separate Accounts will be made only in investment companies that, if they adopt any distribution financing plan under rule 12b–1 under the Act, will have such plan formulated and approved by the investment companies' boards of trustees or directors, the majority of which will not be ''interested persons'' as defined in the Act.

Conclusion

For the reasons set forth above, applicants believe that the requested exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–25253 Filed 10–11–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 95–080]

Navigation Safety Advisory Council Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Navigation Safety Advisory Council (NAVSAC) will meet to discuss various issues. Agenda items include adequacy of barge lighting, and the human element in integrated systems under Chapter 5, Safety of Navigation, of the Safety of Life at Sea Convention (SOLAS). The meeting will be open to the public.

DATES: The meeting will be held November 10 and 11, 1995, from 8:00 to 5:00 p.m. daily. Written material must be received on or before October 26, 1995.

ADDRESSES: The meeting will be held at the Holiday Inn Downtown/Convention Center, 811 North Ninth Street, St. Louis, MO 63101. Written material should be submitted to Margie G. Hegy, Executive Director, Commandant (G–NVT–3), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Margie G. Hegy, Executive Director, Commandant (G–NVT–3), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001, telephone (202) 267–0415.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2 Section 1 *et seq.* The agenda will include discussion of the following topics:

(1) District 2—Western River Bridge Pier Marking Quality Action Team (QAT) Report;

(2) American Waterway Operators' (AWO) Responsible Carrier Program;

(3) The Role of an Electronic Chart Display and Information System (ECDIS) in river navigation;

(4) Adequacy of barge lighting under Navigation Rule 24; and

(5) Review of SOLAS Chapter 5, Safety of Navigation.

Attendance is open to the public. With advance notice, and at the Chairman's discretion, members of the public may make oral presentations during the meeting. Persons wishing to make oral presentations should notify the Executive Director, listed above under **ADDRESSES**, no later than November 2, 1995. Written material may be submitted at any time for presentation to the Council. However, to ensure distribution to each Council member, persons submitting written material are asked to provide 21 copies to the Executive Director no later than October 26, 1995.

Dated: October 5, 1995.

Rudy K. Peschel,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 95–25291 Filed 10–11–95; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Index of Administrator's Decisions and Orders in Civil Penalty Actions; Publication

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of publication.

SUMMARY: This notice constitutes the required quarterly publication of an index of the Administrator's decisions and orders in civil penalty cases. The FAA is publishing an index by order number, an index by subject matter, and case digests that contain identifying information about the final decisions and orders issued by the Administrator. Publication of these indexes and digests is intended to increase the public's awareness of the Administrator's decisions and orders. Also, the publication of these indexes and digests should assist litigants and practitioners in their research and review of decisions and orders that may have precedential value in a particular civil penalty action. Publication of the index by order number, as supplemented by the index by subject matter, ensures that the agency is in compliance with statutory indexing requirements.

FOR FURTHER INFORMATION CONTACT: James S. Dillman, Assistant Chief Counsel of Litigation (AGC–400), Federal Aviation Administration, 701 Pennsylvania Avenue NW, Suite 925, Washington, DC 20004: telephone (202) 376–6441.

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act requires Federal agencies to maintain and make available for public inspection and copying current indexes containing identifying information regarding materials required to be made available or published. 5 U.S.C. 552(a)(2). In a notice issued on July 11, 1990, and published in the Federal Register (55 FR 29148; July 17, 1990), the FAA announced the public availability of several indexes and summaries that provide identifying information about the decisions and orders issued by the Administrator under the FAA's civil penalty assessment authority and the rules of practice governing hearings and appeals of civil penalty actions. 14 CFR Part 13, Subpart G.

The FAA maintains an index of the Administrator's decisions and orders in civil penalty actions organized by order number and containing identifying information about each decision or order. The FAA also maintains a subject-matter index, and digests organized by order number.

In a notice issued on October 26, 1990, the FAA published these indexes and digests for all decisions and orders issued by the Administrator through September 30, 1990. 55 FR 45984; October 31, 1990. The FAA announced in that notice that it would publish supplements to these indexes and digests on a quarterly basis (*i.e.*) in January, April, July, and October of each year). The FAA announced further in that notice that only the subject-matter index would be published cumulatively, and that both the order number index and the digests would be non-cumulative.

Since that first index was issued on October 26, 1990 (55 FR 45984; October 31, 1990), the FAA has issued supplementary notices containing the quarterly indexes of the Administrator's civil penalty decisions as follows:

Dates of quarter	**Federal Register** publication
10/1/90–12/3/90	56 FR 44886; 2/6/91.
1/1/91–3/31/91	56 FR 20250; 5/2/91.
4/1/91–6/30/91	56 FR 31984; 7/12/91.
7/1/91–9/30/91	56 FR 51735; 10/15/91.
10/1/91–12/31/91 ...	57 FR 2299; 1/21/92.
1/1/92–3/31/92	57 FR 12359; 4/9/92.
4/1/92–6/30/92	57 FR 32825; 7/23/92.
7/1/92–9/30/92	57 FR 48255; 10/22/92.
10/1/92–12/31/92 ...	58 FR 5044; 1/19/93.
1/1/93–3/31/93	58 FR 21199; 4/19/93.
4/1/93–6/30/93	58 FR 42120; 8/6/93.
7/1/93–9/30/93	58 FR 58218; 10/29/93.
10/1/93–12/31/93 ...	59 FR 5466; 2/4/94.
1/1/94–3/31/94	59 FR 22196; 4/29/94.
4/1/94–6/30/94	59 FR 39618; 8/3/94.
7/1/94–12/31/94*	60 FR 4454; 1/23/95.
1/1/95–3/31/95	60 FR 19318; 4/17/95.
4/1/95–6/30/95	60 FR 36854; 7/18/95.

*Due to administrative oversight, the index for the third quarter of 1994, including information pertaining to the decisions and orders issued by the Administrator between July 1 and September 30, 1994, was not published on time. The information regarding the third quarter's decisions and orders, as well as the fourth quarter's decisions and orders in 1994, were included in the index published on January 23, 1995.

In the notice published on January 19, 1993, the Administrator announced that for the convenience of the users of these indexes, the order number index published at the end of the year would reflect all of the civil penalty decisions for that year. 58 FR 5044; 1/19/93. The order number indexes for the first, second, and third quarters would be non-cumulative.

The Administrator's final decision and orders, indexes, and digests are available for public inspection and copying at all FAA legal offices. (The addresses of the FAA legal offices are listed at the end of this notice.)

Also, the Administrator's decisions and orders have been published by commercial publishers and are available on computer databases. (Information about these commercial publications and computer databases is provided at the end of this notice.)

Civil Penalty Actions—Orders Issued by the Administrator Order Number Index

(This index includes all decisions and orders issued by the Administrator from July 1, 1995, to September 30, 1995.)

95–15—Alphin Aviation
7/19/95—CP93EA0324

95–16—John Mulhall
8/4/95—CP94NM0026

95–17—Larry's Flying Service
8/4/95—CP93AL0267, CP93AL0268

95–18—Pacific Sky Supply
8/4/95—CP93NM0398; 93EAJANM0014

95–19—Ben Rayner
8/4/95—CP95EA0155

95–20—USAir, Inc.
8/15/95—CP94EA0126

95–21—Ezequiel G. Faisca
9/26/95—CP94EA0209

Civil Penalty Actions—Orders Issued by the Administrator

Subject Matter Index

(Current as of September 30, 1995)

Administrative Law Judges—Power and Authority:
Continuance of hearing ..... 91–11 Continental Airlines; 92–29 Haggland.
Credibility findings ..... 90–21 Carroll; 92–3 Park; 93–17 Metcalf; 94–3 Valley Air; 94–4 Northwest Aircraft Rental.
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13.227	90–21 Carroll.
13.228	92–3 Park.
13.229	
13.230	92–19 Cornwall.
13.231	92–3 Park.
13.232	89–5 Schultz; 90–20 Degenhardt; 92–1 Costello; 92–18 Bargen; 92–32 Barnhill; 93–28 Strohl; 94–28 Toyota; 95–12 Toyota; 95–16 Mulhall.
13.233	89–1 Gressani; 89–4 Metz; 89–5 Schultz; 89–7 Zenkner; 89–8 Thunderbird Accessories, 90–3 Metz; 90–11 Thunderbird Accessories; 90–19 Continental Airlines; 90–20 Degenhardt; 90–25 & 90–27 Gabbert; 90–35 P. Adams; 90–19 Continental Airlines; 90–39 Hart; 91–2 Continental Airlines; 91–3 Lewis; 91–7 Pardue; 91–8 Watts Agricultural Aviation; 91–10 Graham; 91–11 Continental Airlines; 91–12 Bargen; 91–24 Esau; 91–26 Britt Airways; 91–31 Terry & Menne; 91–32 Bargen; 91–43 & 91–44 Delta; 91–45 Park; 91–46 Delta; 91–47 Delta; 91–48 Wendt; 91–52 KDS Aviation; 91–53 Koller; 92–1 Costello; 92–3 Park; 92–7 West; 92–11 Alilin; 92–15 Dillman; 92–16 Wendt; 92–18 Bargen; 92–19 Cornwall; 92–27 Wendt; 92–32 Barnhill; 92–34 Carrell; 92–35 Bay Land Aviation; 92–36 Southwest Airlines; 92–39 Beck; 92–45 O'Brien; 92–52 Beck; 92–56 Montauk Caribbean Airways; 92–57 Detroit Metro. Wayne Co. Airport; 92–67 USAir; 92–69 McCabe; 92–72 Giuffrida; 92–74 Wendt; 92–78 TWA; 93–5 Wendt; 93–6 Westair Commuter; 93–7 Dunn; 93–8 Nunez; 93–19 Pacific Sky Supply; 93–23 Allen; 93–27 Simmons; 93–28 Strohl; 93–31 Allen; 93–32 Nunez; 94–9 B & G Instruments; 94–10 Boyle; 94–12 Bartusiak; 94–15 Columna; 94–18 Luxemburg; 94–23 Perez; 94–24 Page; 94–26 French Aircraft; 94–28 Toyota; 95–2 Meronek; 95–9 Woodhouse; 95–13 Kilrain
13.234	90–19 Continental Airlines; 90–31 Carroll; 90–32 & 90–38 Continental Airlines; 91–4 [Airport Operator]; 95–12 Toyota.
13.235	90–11 Thunderbird Accessories; 90–12 Continental Airlines; 90–15 Playter; 90–17 Wilson; 92–7 West.
Part 14	92–74 & 93–2 Wendt; 95–18 Pacific Sky Supply.
14.01	91–17 & 92–71 KDS Aviation.
14.04	91–17, 91–52 & 92–71 KDS Aviation; 93–10 Costello.

14.05	90–17 Wilson.
14.20	91–52 KDS Aviation.
14.22	93–29 Sweeney.
14.26	91–52 KDS Aviation.
14.28	95–9 Woodhouse.
21.303	93–19 Pacific Sky Supply; 95–18 Pacific Sky Supply.
25.855	92–37 Giuffrida.
39.3	92–10 Flight Unlimited; 94–4 Northwest Aircraft Rental.
43.3	92–73 Wyatt.
43.9	91–8 Watts Agricultural Aviation.
43.13	90–11 Thunderbird Accessories; 94–3 Valley Air; 94–38 Bohan.
43.15	90–25 & 90–27 Gabbert; 91–8 Watts Agricultural Aviation; 94–2 Woodhouse.
65.15	92–73 Watt.
65.92	92–73 Watt.
91.8 (91.11 as of 8/18/90)	92–3 Park.
91.9 (91.13 as of 8/18/90)	90–15 Playter; 91–12 & 91–31 Terry & Menne; 92–8 Watkins; 92–40 Wendt; 92–48 USAir; 92–49 Richardson & Shimp; 92–47 Cornwall; 92–70 USAir; 93–9 Wendt; 93–17 Metcalf; 93–18 Westair Commuter; 93–29 Sweeney; 94–29 Sutton.
91.29 (91.7 as of 8/18/90)	91–8 Watts Agricultural Aviation; 92–10 Flight Unlimited; 94–4 Northwest Aircraft Rental.
91.65 (91.111 as of 8/18/90)	91–29 Sweeney; 94–21 Sweeney.
91.67 (91.113 as of 8/18/90)	91.29 Sweeney.
91.75 (91.123 as of 8/18/90)	91–12 & 91–31 Terry & Menne; 92–8 Watkins; 92–40 Wendt; 92–49 Richardson & Shimp; 93–9 Wendt.
91.79 (91.119 as of 8/18/90)	90–15 Playter; 92–47 Cornwall; 93–17 Metcalf.
91.87 (91.129 as of 8/18/90)	91.12 & 91–31 Terry & Menne; 92–8 Watkins.
91.173 (91.417 as of 8/18/90)	91–8 Watts Agricultural Aviation.
91.703	94–29 Sutton.
107.1	90–19 Continental Airlines; 90–20 Degenhardt; 91–4 [Airport Operator]; 91–58 [Airport Operator].
107.13	90–12 & 90–19 Continental Airlines; 91–4 [Airport Operator]; 91–18 [Airport Operator]; 91–40 [Airport Operator]; 91–41 [Airport Operator]; 91–58 [Airport Operator].
107.20	90–24 Bayer; 92–58 Hoedl.
107.21	89–5 Schultz; 90–10 Webb; 90–22 Degenhardt; 90–23 Broyles; 90–26 & 90–43 Waddell; 90–33 Cato; 90–39 Hart; 91–3 Lewis; 91–10 Graham; 91–30 Trujillo; 91–38 Esau; 91–53 Koller; 92–32 Barnhill; 92–38 Cronberg; 92–46 Sutton-Sautter; 92–51 Koblick; 92–59 Petek-Jackson; 94–5 Grant; 94–31 Smalling.
107.25	94–30 Columna.
108.5	90–12, 90–18, 90–19, 91–2 & 91–9 Continental Airlines; 91–33 Delta Air Lines; 91–54 Alaska Airlines; 91–55 Continental Airlines; 92–13 & 94–1 Delta Air Lines; 94–44 American Airlines.
108.7	90–18 & 90–19 Continental Airlines.
108.11	90–23 Broyles; 90–26 Waddell; 91–3 Lewis; 92–46 Sutton-Sautter; 94–44 American Airlines.
108.13	90–12 & 90–19 Continental Airlines; 90–37 Northwest Airlines.
121.133	90–18 Continental Airlines.
121.153	92–48 & 92–70 USAir; 95–11 Horizon.
121.317	92–37 Giuffrida; 94–18 Luxemburg.
121.318	92–37 Giuffrida.
121.367	90–12 Continental Airlines.
121.571	92–37 Giuffrida.
121.628	95–11 Horizon.
135.1	95–8 Charter Airlines.
135.5	94–3 Valley Air; 94–20 Conquest Helicopters.
135.25	92–10 Flight Unlimited; 94–3 Valley Air.
135.63	94–40 Polynesian Airways; 95–17 Larry's Flying Service.
135.87	90–21 Carroll.
135.95	95–17 Larry's Flying Service.
135.185	94–40 Polynesian Airways.
135.263	95–9 Charter Airlines.
135.267	95–8 Charter Airlines; 95–17 Larry's Flying Service.
135.293	95–17 Larry's Flying Service.
135.343	95–17 Larry's Flying Service.
135.413	94–3 Valley Air.
135.421	93–36 Valley Air; 94–3 Valley Air.
135.437	94–3 Valley Air.
145.53	90–11 Thunderbird Accessories.
145.57	94–2 Woodhouse.
145.61	90–11 Thunderbird Accessories.
191	90–12 & 90–19 Continental Airlines; 90–37 Northwest Airlines.
298.1	92–10 Flight Unlimited.
302.8	90–22 USAir.
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1.47	92–76 Safety Equipment.
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171.2	92–77 TCI; 94–28 Toyota; 94–31 Smalling; 95–16 Mulhall.

171.8	92–77 TCI.
172.101	92–77 TCI; 94–28 Toyota; 94–31 Smalling.
172.200	92–77 TCI; 94–28 Toyota; 95–16 Mulhall.
172.202	92–77 TCI; 94–28 Toyota; 94–31 Smalling; 95–16 Mulhall.
172.203	94–28 Toyota.
172.204	92–77 TCI; 94–28 Toyota; 94–31 Smalling; 95–16 Mulhall.
172.300	94–31 Smalling; 95–16 Mulhall.
172.301	94–31 Smalling; 95–16 Mulhall.
172.304	92–77 TCI; 94–31 Smalling; 95–16 Mulhall.
172.400	92–77 TCI; 94–28 Toyota; 94–31 Smalling; 95–16 Mulhall.
172.402	94–28 Toyota.
172.406	92–77 TCI.
173.1	92–77 TCI; 94–28 Toyota; 94–31 Smalling; 95–16 Mulhall.
173.3	94–28 Toyota; 94–31 Smalling.
173.6	94–28 Toyota.
173.22(a)	94–28 Toyota; 94–31 Smalling.
173.24	94–28 Toyota; 95–16 Mulhall.
173.25	94–28 Toyota.
173.27	92–77 TCI.
173.115	92–77 TCI.
173.240	92–77 TCI.
173.243	94–28 Toyota.
173.260	94–28 Toyota.
173.266	94–28 Toyota; 94–31 Smalling.
175.25	94–31 Smalling.
821.30	92–73 Wyatt.
821.33	90–21 Carroll.
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5 U.S.C.:	
504	90–17 Wilson; 91–17 & 92–71 KDS Aviation; 92–74, 93–2 & 93–9 Wendt; 93–29 Sweeney; 94–17 TCI.
552	90–12, 90–18 & 90–19 Continental Airlines; 93–10 Costello.
554	90–18 Continental Airlines; 90–21 Carroll; 95–12 Toyota.
556	90–21 Carroll; 91–54 Alaska Airlines.
557	90–20 Degenhardt; 90–21 Carroll; 90–37 Northwest Airlines; 94–28 Toyota.
705	95–14 Charter Airlines.
11 U.S.C.:	
362	91–2 Continental Airlines.
28 U.S.C.:	
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5123	95–16 Mulhall.
49 U.S.C. App.:	
1301(31) (operate)	93–18 Westair Commuter.
(32) (person)	93–18 Westair Commuter.
1356	90–18 & 90–19, 91–2 Continental Airlines.
1357	90–18, 90–19 & 91–2 Continental Airlines; 91–41 [Airport Operator]; 91–58 [Airport Operator].
1421	92–10 Flight Unlimited; 92–48 USAir; 92–70 USAir; 93–9 Wendt.
1429	92–73 Wyatt.
1471	89–5 Schultz; 90–10 Webb; 90–20 Degenhardt; 90–12, 90–18 & 90–19 Continental Airlines; 90–23 Broyles; 90–26 & 90–43 Waddell; 90–33 Cato; 90–37 Northwest Airlines; 90–39 Hart; 91–2 Continental Airlines; 91–3 Lewis; 91–18 [Airport Operator]; 91–53 Koller; 92–5 Delta Air Lines; 92–10 Flight Unlimited; 92–46 Sutton-Sautter; 92–51 Koblick; 92–74 Wendt; 92–76 Safety Equipment; 94–20 Conquest Helicopters; 94–40 Polynesian Airways.
1475	90–20 Degenhardt; 90–12 Continental Airlines; 90–18, 90–19 & 91–1 Continental Airlines; 91–3 Lewis; 91–18 [Airport Operator]; 94–40 Polynesian Airways.
1486	90–21 Carroll.
1809	92–77 TCI; 94–19 Pony Express; 94–28 Toyota; 94–31 Smalling; 95–12 Toyota.

Civil Penalty Actions—Orders Issued by the Administrator

Digests

(Current as of September 30, 1995)

The digests of the Administrator's final decisions and orders are arranged by order number, and briefly summarize key points of the decision. The following compilation of digests includes all final decisions and orders issued by the Administrator from July 1, 1995, to September 30, 1995. The FAA will publish noncumulative supplements to this compilation on a quarterly basis (*e.g.*, April, July, October, and January of each year).

These digests do not constitute legal authority, and should not be cited or relied upon as such. The digests are not intended to serve as a substitute for proper legal research. Parties, attorneys, and other interested persons should always consult the full text of the Administrator's decisions before citing them in any context.

In the Matter of Alphin Aviation Inc.

Order No. 95–15 (7/19/95)

Appeal Dismissed. Respondent failed to file a timely notice of appeal. The appeal is dismissed.

In the Matter of John Mulhall

Order No. 95–16 (8/4/95)

Settlement Offer. Prior to the hearing, Mr. Mulhall sent a letter to the law judge, setting out a settlement offer made by the agency attorney. Complainant argued on appeal that it was error for the law judge to admit this letter into evidence at the hearing. Technically, the law judge should not have admitted the evidence of the settlement offer. By apprising the law judge of the terms of the settlement offer, Mr. Mulhall circumvented Rule 408 of the Federal Rules of Evidence, which prohibits the introduction of settlement offers for the purpose of proving liability and amount of damages. But this was an ex parte communication. It was not improper for the law judge to include the letter in the record because by admitting the letter, he made a record of the information to which he had had access. Also, while the judge's order and the settlement offer have some similarities, these similarities are not so strong as to prove that the law judge was unduly influenced by the disclosure of the terms of the settlement offer.

Civil Penalty Payable in Installments. It was held that law judges may prescribe payment plans, but for policy reasons, the law judges should use this authority on only rare occasions, such as in this case in which the respondent is an individual with severely limited financial means. In such cases, the deterrent value of the penalty will not be overly diluted by an installment payment plan. When an installment plan is appropriate, the law judge should consult with the agency attorney to work out a payment schedule that will not be unduly burdensome for Complainant to administer.

The law judge's order is modified to correct an apparent oversight. The $750 civil penalty shall be paid in 30 monthly installments of $25.00 each.

Minimum Penalty under the Federal Hazardous Materials Transportation Law. In reconciling 49 U.S.C. 5123 (a) and (c), it is held that the only sensible way to interpret these sections, without rendering any of the language superfluous, meaningless or inconsistent, is to read them to say that in cases of inability to pay a fine of $250 multiplied by the number of violations, a penalty of less than that amount may be assessed.

In the Matter of Larry's Flying Service

Order No. 95–17 (8/4/95)

The law judge reduced the combined $35,000 civil penalty to $15,000 payable in 15 installments of $1,000 each due to Larry's Flying Service's financial hardship. Complainant did not appeal from the reduction of the civil penalty, but instead contested on appeal the law judge's authority to assess a civil penalty payable in installments. Referring to *In the Matter of Mulhall,* FAA Order No. 95–16 (8/4/95), the Administrator held that law judges may prescribe payment plans, but for policy reasons, the law judges should use this authority on only rare occasions, such as in cases in which the respondent has severely limited financial means. The law judge should consult the agency attorney to determine whether a payment schedule under consideration would be unduly burdensome for the agency to administer.

In the Matter of Pacific Sky Supply, Inc.

Order No. 95–18 (8/4/95)

Award of Attorney Fees Reversed. The law judge's award of $87,724.19 in attorney fees and costs to Pacific Sky is reversed because the FAA's position was substantially justified and because special circumstances make an award of fees unjust.

Reasonable Basis in Law. The standard advanced by the FAA—*i.e.*, that a violation had been proven if it was reasonably likely that some of the parts would be installed on type-certificated products—was a reasonable standard, and the Administrator's ultimate determination that the slightly more rigorous ''substantially certain'' standard should be applied does not alter this.

This case involved an unsettled, complex issue. It was a case of first impression, and a very close case. In such cases, courts have held there was a reasonable basis in law. The FAA did not depart from its reasonable overall objectives in advancing the ''reasonably likely'' standard, particularly in light of the increasing concern on the part of the American people about the proliferation of unapproved aircraft parts.

Reasonable Basis in Fact. Although the law judge believed there was not enough in the official record to support the FAA's position, that is because he too narrowly defined the record. The law judge erred in refusing to consider exhibits that the FAA filed with him pursuant to his own pre-hearing order.

Contrary to the law judge's holding, there was enough evidence in the record to support FAA's theory of the case—that Pacific Sky produced the parts at issue when it did not hold a Parts Manufacturer Approval and that Pacific Sky sold parts indiscriminately in a market where it was reasonably likely that at least some of them would be installed in civil aircraft.

Because there was a reasonable basis in law and in fact for the FAA's position, it was substantially justified.

Special Circumstances. The special circumstances exception is a ''safety valve'' to insure that the government is not deterred from ''advancing in good faith the novel but credible extensions and interpretations of law that often underlie vigorous enforcement efforts.'' Probably no case fits the special circumstances exception better than this one. The government's enforcement role requires it to take a broad view of what it may prosecute because judicial review stands guard against an error in that direction, while an error in the opposite direction is unlikely ever to be corrected.

In the Matter of Ben Rayner

Order No. 95–19 (8/4/95)

Appeal from Order Assessing Civil Penalty Dismissed. The Administrator construed Mr. Rayner's Motion to Set Aside Order Assessing Civil Penalty as a request for hearing. The Administrator further construed the Agency's Motion to Dismiss as a motion to dismiss a late-filed request for hearing. The motion to dismiss should be decided by the law judge to be assigned to this case. Mr. Rayner's appeal to the Administrator is dismissed as premature.

In the Matter of USAir, Inc.

Order No. 95–20 (8/20/95)

Appeal Dismissed. Complainant has withdrawn its notice of appeal. Therefore, Complainant's appeal is dismissed.

In the Matter of Ezequiel G. Faisca

Order No. 95–21 (9/26/95)

Appeal Dismissed. Complainant has withdrawn its notice of appeal. Therefore, Complainant's appeal is dismissed.

Commercial Reporting Services of the Administrator's Civil Penalty Decisions and Orders

In June 1991, as a public service, the FAA began releasing to commercial publishers the Administrator's decisions and orders in civil penalty cases. The goal was to make these decisions and orders more accessible to the public. The Administrator's decisions and orders in civil penalty cases are now available in the following commercial publications:

AvLex, published by Aviation Daily, 1156 15th Street, NW, Washington, DC 20005, (202) 822–4669;

Civil Penalty Cases Digest Service, published by Hawkins Publishing Company, Inc., P.O. Box 480, Mayo, MD, 21106, (410) 798–1677;

Federal Aviation Decisions, Clark Boardman Callaghan, 50 Broad Street East, Rochester, NY 14694, (716) 546–1490.

The decisions and orders may be obtained on disk from Aviation Records, Inc., P.O. Box 172, Battle Ground, WA 98604, (206) 896–0376. Aeroflight Publications, P.O. Box 854, 433 Main Street, Gruver, TX 79040 (806) 733–2483, is placing the decisions on CD–ROM. Finally, the Administrator's decisions and orders in civil penalty cases are available on Compuserve and FedWorld.

The FAA has stated previously that publication of the subject-matter index and the digests may be discontinued once a commercial reporting service publishes similar information in a timely and accurate manner. No decision has been made yet on this matter, and for the time being, the FAA will continue to prepare and publish the subject-matter index and digests.

FAA Offices

The Administrator's decisions and orders, indexes, and digests are available for public inspection and copying at the following location in FAA headquarters:

FAA Hearing Docket, Federal Aviation Administration, 800 Independence Avenue, SW., Room 924A, Washington, DC 20591; (202) 267–3641.

These materials are also available at all FAA regional and center legal offices at the following locations:

Office of the Assistant Chief Counsel for the Aeronautical Center (AMC–7), Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73125; (405) 954–3296

Office of the Assistant Chief Counsel for the Alaskan Region (AAL–7), Alaskan Region Headquarters, 222 West 7th Avenue, Anchorage, AL 99513; (907) 271–5269

Office of the Assistant Chief Counsel for the Central Region (ACE–7), Central Region Headquarters, 601 East 12th Street, Federal Building, Kansas City, MO 64106; (816) 426–5446

Office of the Assistant Chief Counsel for the Eastern Region (AEA–7), Eastern Region Headquarters, JFK International Airport, Federal Building, Jamaica, NY 11430; (718) 553–3285

Office of the Assistant Chief Counsel for the Great Lakes Region (AGL–7), 2300 East Devon Avenue, Suite 419, Des Plaines, IL 60018; (708) 294–7108

Office of the Assistant Chief Counsel for the New England Region (ANE–7), New England Region Headquarters, 12 New England Executive Park, Room 401, Burlington, MA 01803–5299; (617) 238–7050

Office of the Assistant Chief Counsel for the Northwest Mountain Region (ANM–7), Northwest Mountain Region Headquarters, 1601 Lind Avenue, SW, Renton, WA 98055–4056; (206) 227–2007

Office of the Assistant Chief Counsel for the Southern Region (ASO–7), Southern Region Headquarters, 1701 Columbia Avenue, College Park, GA 30337; (404) 305–5200

Office of the Assistant Chief Counsel for the Southwest Region (ASW–7), Southwest Region Headquarters, 2601 Meacham Blvd., Fort Worth, TX 76137–4298; (817) 222–5087

Office of the Assistant Chief Counsel for the Technical Center (ACT–7), Federal Aviation Administration Technical Center, Atlantic City International Airport, Atlantic City, NJ 08405; (609) 485–7087

Office of the Assistant Chief Counsel for the Western-Pacific Region (AWP–7), Western-Pacific Region Headquarters, 15000 Aviation Boulevard, Lawndale, CA 90261; (310) 726–7100

Issued in Washington, DC on October 4, 1995.

James S. Dillman,

Assistant Chief Counsel for Litigation.

[FR Doc. 95–25293 Filed 10–11–95; 8:45 am]

BILLING CODE 4910–13–M

Air Traffic Procedures Advisory Committee (ATPAC) Meeting To Review Present Air Traffic Control Procedures and Practices for Standardization, Clarification, and Upgrading of Terminology and Procedures; Correction

AGENCY: Federal Aviation Administration.

ACTION: Correction.

SUMMARY: In notice Document 95–23340 beginning on page 48743 in the issue of Wednesday, September 20, 1995, make the following correction:

On page 48743 in the third column, third and fifth paragraphs, the location of the meeting October 23–26 should be changed to the Sheraton Suites, 801 North Saint Asaph Street, Alexandria, Virginia 22314. The locations previously published were MacCracken Room, FAA, and National Business Aircraft Association.

Dated: October 5, 1995.

W. Frank Price,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 95–25300 Filed 10–11–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Kansas City International Airport, Kansas City, MO

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Kansas City International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before November 13, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Central Region, Airports Division, 601 E. 12th Street, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. John D. Solomon, Director of Aviation, at the following address: Kansas City Aviation Department, 150 Richards Road, Suite 265, Kansas City, Missouri 64116.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Kansas City International Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Lorna Sandridge, PFC Coordinator, FAA, Central Region, 601 E. 12th Street, Kansas City, MO 64106, (816) 426–4730. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Kansas City International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On October 2, 1995, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Kansas City Aviation Department, Kansas City International Airport, Kansas City, Missouri, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 3, 1996.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00
Proposed charge effective date: March 1, 1996
Proposed charge expiration date: April 30, 2001
Total estimated PFC revenue: $64,043,091

Brief description of proposed project(s): Pave Rwy 1R–19L, Taxiways E&F and all connecting taxiways; Remodel terminal (Design); Taxiway D rehabilitation; ARFF Vehicle acquisition; Overlay R1L–19R, Taxiway A,A1–A9; Terminal apron rehabilitation; Land acquisition for noise mitigation; Terminal apron lighting; Overlay R9–27 and Taxiway C, C1–C9; Expand General Aviation Apron; Construct Federal Inspection Services (FIS) facility; Overlay Taxiway B; and Remodel terminal (Construction).

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Part 135 Air Taxis.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Kansas City International Airport.

Issued in Kansas City, Missouri on October 3, 1995.

James W. Brunskill,

Acting Manager, Airports Division, Central Region.

[FR Doc. 95–25301 Filed 10–11–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on an Application to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Binghamton Regional Airport, Binghamton, New York

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a Passenger Facility Charge (PFC) at Binghamton Regional Airport, Binghamton, New York, under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before November 13, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Philip Brito, Manager New York Airports District Office, 600 Old Country Road, suite 446, Garden City, New York, 11530.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to William C. Finn, Jr., Commissioner of Aviation Broome County, New York, at the following address: Binghamton Regional Airport/Edwin A. Link Field, Johnson City, New York 13790.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Binghamton Regional Airport under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Brito, Manager New York Airports District Office 600 Old Country Road, Suite 446 Garden City, New York, 15530. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a Passenger Facility Charge (PFC) at Binghamton Regional Airport, Binghamton, New York, under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On July 31, 1995, the FAA determined that the application to impose and use the revenue from a PFC submitted by Broome County Department of Aviation was substantially complete within the requirements of Section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than October 24, 1995.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00
Proposed charge effective date: January 1, 1996
Proposed charge expiration date: December 31, 1997
Total estimated PFC revenue: $802,640

Brief description of proposed projects:

Land Acquisition For Runway 10 Runway Protection Zone (use only)
Demolition of the American Airlines Hanger and Cargo Building (use only)
Passenger Terminal Refurbishing (impose only)
Replace Snow Removal Equipment (use only)
Emergency Access Road Construction (use only)

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi Operators Filing Form FAA 1800–31.

Any person may inspect the application in person at the FAA office listed above under ''FOR FURTHER INFORMATION CONTACT'' and at the FAA Regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Binghamton Regional Airport, Binghamton, New York.

Issued in Jamaica, New York State on October 4, 1995.

William DeGraaff,

Manager, Planning and Programming Branch, Airports Division, Eastern Region.

[FR Doc. 95–25299 Filed 10–11–95; 8:45 am]

BILLING CODE 4910–13–M

Research and Special Programs Administration

Office of Hazardous Materials safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1–Motor vehicle, 2–Rail freight, 3–Cargo vessel, 4–Cargo aircraft only, 5–Passenger-carrying aircraft.

DATES: Comments must be received on or before November 13, 1995.

ADDRESSES COMMENTS TO: Dockets Unit, Research and Special Programs,

Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street, SW. Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11551–N	The Fertilizer Institute, Washington, DC.	49 CFR 180.407(c)(h)(1)(ii).	To authorize an alternative testing procedure for MC–330 and MC–331 cargo tanks in dedicated anhydrous ammonia service. (Mode 1.)
11554–N	Kodson Enterprises, Ventura, CA.	49 CFR 172.101, 175.3	To authorize the transportation in commerce of motor fuel modules containing not more than 1500 grams of propellant per module to be shipped in prescribed packaging as flammable solids, Division 4.1. (Mode 4.)
11555–N	USA Fertilizer Inc., Blackfoot, ID.	49 CFR 174.67(j)	To authorize rail cars to remain connected during unloading of sulfuric acid, Class 8 without the physical presence of an unloader. (Mode 2.)
11556–N	Pursuit Marketing, Inc., Northbrook, IL.	49 CFR 173.302(a)(1), 173.304, 178.42.	To authorize the manufacture, mark, and sale of non-DOT specification cylinder for use in transporting Division 2.1 and 2.2. (Modes 1, 2, 3, 4, 5.)
11557–N	Westvaco, Richmond, VA.	49 CFR 174.67(i)	To authorize rail cars to remain connected, during unloading of Class 9 material without the physical presence of an unloader. (Mode 2.)
11558–N	Service Oil Co., West Fargo, ND.	49 CFR 179.13	To authorize the transportation of DOT 111A200WI tank cars, containing diesel fuel, which exceed the weight limitations. (Mode 2.)
11559–N	Japan Oxygen, Inc., Long Beach, CA.	49 CFR 173.318	To authorize the transportation of non-DOT specification insulated cargo tanks for use in transporting helium, Division 2.2. (Modes 1, 3.)
11560–N	Trans Continental Airlines, Inc., Ypsilanti, MI.	49 CFR 107, Subpart B, 172.101, 172.204(c)(3), 173.27, 175.30(a)(1).	To authorize the transportation in commerce of Division 1 explosives and ammunition presently forbidden or in quantities greater than those authorized. (Mode 4.)
11561–N	Solkatronic Chemicals, Fairfield, NJ.	49 CFR 173.28(b)(7)(ii)	To authorize the transportation in commerce of stainless steel refillable containers on vehicles other than company-owned or exclusive-use vehicles. (Mode 1.)
11564–N	Nippon Sharyo Ltd., Toyokawa, Aichi, JA.	49 CFR 178.245–7(a), 178.2451(b).	To authorize the transportation in commerce of a pressure-liquefied non-flammable refrigerant gas in non-DOT specification steel portable tanks permanently fitted with an ISO frame with openings which are located in the shell below liquid level lines and are not grouped together with the other openings. (Modes 1, 2, 3.)
11565–N	C.P.F. Dualam Inc., Gatesville, TX.	49 CFR 178.345, 178.348.	To authorize the manufacture, mark and sale of non-DOT specification cargo tanks of fiberglass construction for use in transporting Class 8 material. (Mode 1.)
11566–N	Nippon Sharyo Ltd., Toyokawa, Aichi, JA.	49 CFR 178.245–1(b), 178.245–7(a).	To authorize the manufacture, mark and sale of non-DOT specification steel portable tanks equipped with openings not grouped together for use in transporting flammable and non-flammable refrigerant gases. (Modes 1, 2, 3.)
11568–N	Equipment & Meter Services Inc., Linden, NJ.	49 CFR 172.200, 172.602, 173.242.	To authorize the transportation of a non-DOT specification device known as a meter prover for use in calibration of various hazardous materials. (Mode 1.)

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on October 5, 1995.

J. Suzanne Hedgepeth,

Chief, Exemption Programs, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 95–25234 Filed 10–11–95; 8:45 am]

BILLING CODE 4910–60–M

Office of Hazardous Materials Safety; Notice of Application for Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions or applications to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Requests for modification of exemptions, (e.g., to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. Application numbers with the suffix ''P'' denote a party to request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before October 27, 1997.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-

addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT:

Copies of the application are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street SW, Washington, DC.

Application No.	Applicant	Renewal of exemption
4850–M	Halliburton Energy Services, Alvarado, TX (See Footnote 1).	4850
5493–M	Montana Sulphur & Chemical Co., Billings, MT (See Footnote 2).	5493
6117–M	Montana Sulphur & Chemical Co., Billings, MT (See Footnote 3).	6117
8710–M	Akzo Nobel, Chicago, IL (See Footnote 4).	8710
10962–M	International Compliance Center Ltd., Niagara Falls, NY (See Footnote 5).	10962
11549–M	JBF Scientific Co., Inc., Southwest Harbor, ME (See Footnote 6).	11549

[1] To modify the exemption to provide for an additional explosive, lead clad, detonating cord.

[2] To modify exemption to exempt DOT–105A600W tank cars from outage requirements when use to transport hydrogen sulfide, Division 2.3.

[3] To modify exemption to exempt DOT Specification 105A600W from filling density requirement when used in transporting hydrogen sulfide, Division 2.3.

[4] To modify exemption to remove the requirement to pre-cool all peroxide solutions prior to shipment contained in DOT-Specification MC–307/312 cargo tanks.

[5] To modify the exemption to provide for any glass bottle as inside container and passenger aircraft as an additional mode.

[6] To reissue an exemption originally issued on an emergency basis to authorize the transportation in commerce of non-specification cargo tank built to MC–306 for use in transporting certain hazardous materials.

Application No.	Applicant	Parties to exemption
4850–P	GOEX International, L.L.C., Houston, TX.	4850
7616–P	Birmingham Southern Railroad Company, Fairfield, AL.	7616
8074–P	Advanced Gas Technologies, Inc., Palm, PA.	8074
8451–P	Precision Ordnance Products, Inc., Phoenix, AZ.	8451
8451–P	GOEX International, L.L.C., Houston, TX.	8451
8845–P	GOEX International, L.L.C., Houston, TX.	8845
8958–P	GOEX International, L.L.C., Houston, TX.	8958
9262–P	GOEX International, L.L.C., Houston, TX.	9262
9281–P	GOEX International, L.L.C., Houston, TX.	9281
9769–P	Environmental Transportation Services, Inc., Oklahoma City, OK.	9769
9769–P	Dart Trucking Company, Inc., Canfield, OH.	9769
10307–P	Akzo Nobel Chemicals, Inc., Chicago, IL.	10307
10441–P	HazMat Environmental Group, Inc., Buffalo, NY.	10441
10717–P	Akzo Nobel Chemicals, Inc., Chicago, IL.	10717
11156–P	Dyno Nobel Inc., Salt Lake City, UT.	11156
11207–P	Salt River Project, Phoenix, AZ.	11207
11207–P	American Electric Power Corporation, Columbus, OH.	11207
11335–P	Procor Limited, Subsidiary of Union Tank Car Co., East Chicago, IN.	11335
11346–P	GOEX International, L.L.C., Houston, TX.	11346
11458–P	The Solaris Group/A Unit of Monsanto Company, San Ramon, CA.	11458

This notice of receipt of applications for modification of exemptions and for party to an exemption is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on October 5, 1995.

J. Suzanne Hedgepeth,

Chief, Exemption Programs, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 95–25233 Filed 10–11–95; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Mark to Market for Dealers in Securities; Information Collections

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning a temporary regulation and cross-reference notice of proposed rulemaking (FI–72–93)—Mark to Market for Dealers in Securities.

DATES: Written comments should be received on or before December 11, 1995 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Mark to Market for Dealers in Securities

OMB Number: 1545–1422

Regulation Project Number: FI–72–93 NPRM and Temp.

Abstract: This information is required by the IRS to verify compliance with section 475 of the Internal Revenue Code. This information will be used to determine whether the amount of tax has been computed correctly.

Current Actions: There is no change to the collection of information in this regulation.

Type of Review: Extension

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 25,000

Estimated Time Per Respondent: 1 hour

Estimated Total Annual Burden Hours: 25,000 Hours

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Approved: October 5, 1995.
Garrick R. Shear,
IRS Reports Clearance Officer.
[FR Doc. 95–25315 Filed 10–11–95; 8:45 am]
BILLING CODE 4830–01–U

Sunshine Act Meetings

Federal Register
Vol. 60, No. 197
Thursday, October 12, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the ''Government in the Sunshine Act'' (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, October 13, 1995.

PLACE: 2033 K St. NW., Washington, DC, 9th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–254–6314.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 95–25353 Filed 10–6–95; 5:02 pm]
BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, October 20, 1995.

PLACE: 2033 K St. N.W., Washington, D.C. 9th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–254–6314.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 95–25354 Filed 10–6–95; 5:02 pm]
BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, October 27, 1995.

PLACE: 2033 K St. N.W., Washington, D.C. 9th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–254–6314.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 95–25355 Filed 10–6–95; 5:02 pm]
BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, October 31, 1995.

PLACE: 2033 K St., N.W., Washington, D.C. 9th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–254–6314.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 95–25356 Filed 10–6–95; 5:02 pm]
BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:30 a.m., Friday, October 13, 1995.

PLACE: 2033 K St., N.W., Washington, D.C. 9th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement Review.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 95–25357 Filed 10–6–95; 5:02 pm]
BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Friday, October 13, 1995.

PLACE: 2033 K St., N.W., Washington, D.C. 9th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb
Secretary of the Commission.
[FR Doc. 95–25358 Filed 10–6–95; 5:02 pm]
BILLING CODE 6351–01–M

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Meeting Notice

TIME AND DATE: 1:00 p.m., November 6, 1995.

PLACE: Uniformed Services University of the Health Sciences, Room D3001, 4301 Jones Bridge Road, Bethesda, MD 20814–4799.

STATUS: Open — under ''Government in the Sunshine Act'' (5 U.S.C. 552b(e)(3)).

MATTERS TO BE CONSIDERED:

1:00 p.m. Meeting — Board of Regents

(1) Approval of Minutes — August 7, 1995
(2) Faculty Matters
(3) Department Reports
(4) Financial Report
(5) Report — President, USUHS
(6) Report — Dean, School of Medicine
(7) Comments — Chairman, Board of Regents

New Business

CONTACT PERSON FOR MORE INFORMATION: Bobby D. Anderson, Executive Secretary of the Board of Regents, 301/295–3116.

Dated; October 6, 1995.

Linda Bynum,
OSD Federal Register Liaison Officer, Department of Defense.
[FR Dec. 95–25448 Filed 10–10–95; 2:27 pm]
BILLING CODE 5000–04–M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, October 17, 1995 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), the Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, October 19, 1995 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor).

STATUS: This Meeting Will Be Open to the Public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.
Advisory Opinion 1995–34: Michael J. Kurman on behalf of Politechs, Inc.
MCFL Regulations: 11 CFR 109.1 and 114.1 through 114.4.
Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Delores Hardy,
Administrative Assistant.
[FR Doc. 95–25482 Filed 10–10–95; 3:13 pm]
BILLING CODE 6715–01–M

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 10:00 a.m., Wednesday, September 27, 1995.

PLACE: Board Conference Room, Eleventh Floor, 1099 Fourteenth St., NW., Washington, DC 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices) and 9(B) (Disclosure would significantly frustrate implementation of a proposed Agency action).

MATTERS TO BE CONSIDERED: Budget.

CONTACT PERSON FOR MORE INFORMATION: John J. Toner, Acting Executive Secretary, Washington, DC 20570, Telephone: (202) 273–1940.

Dated: Washington, DC, October 6, 1995.

By direction of the Board.

John J. Toner,

Acting Executive Secretary, National Labor Relations Board.

[FR Doc. 95–25411 Filed 10–10–95; 10:47 am]

BILLING CODE 7545–01–M

UNITED STATES ENRICHMENT CORPORATION

Board of Directors

TIME AND DATE: 10:00 a.m., Wednesday, October 11, 1995.

PLACE: USEC Corporate Headquarters, 6903 Rockledge Drive, Bethesda, Maryland 20817.

STATUS: The meeting will be closed to the public.

MATTER TO BE CONSIDERED:

- Review of commercial and financial issues of the Corporation.

CONTACT PERSON FOR MORE INFORMATION: Barbara Arnold 301–564–3354.

Dated: October 6, 1995.

William H. Timbers, Jr.,

President and Chief Executive Officer.

[FR Doc. 95–25372 Filed 10–10–95; 10:07 am]

BILLING CODE 8720–01–M

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Federal Register

Vol. 60, No. 197

Thursday, October 12, 1995

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